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Introduction

1. This document has been prepared in reply to the request of the Secretary-General of the United Nations. It contains the information requested in the consolidated guidelines for the initial parts of the reports of States parties attached to his request. As proposed in the guidelines, the information is presented in four parts: land and people; general political structure; general legal framework within which human rights are protected; and information and publicity.

I. LAND AND PEOPLE

A. The land

2. Canada occupies most of the northern part of North America. With its area of nearly 10 million square kilometres, Canada is the second largest country in the world, second only to the Russian Federation in total area, and slightly larger than the United States or China. Canada stretches 5,500 kilometres from east to west, encompassing 15 ecozones and 6 time zones. The country's 10 provinces and 2 territories vary widely in size. The Northwest Territories (at 3.4 million square kilometres) is the largest political unit. The provinces range in size from Québec (1.5 million square kilometres) to Prince Edward Island (5,700 square kilometres). Canada's northernmost point is only 768 kilometres from the North Pole, while its southernmost one shares roughly the same latitude as Rome. Between these two points, the north-south distance is 4,600 kilometres.

3. Canada borders three oceans (the Atlantic, Pacific and Arctic) and, due to its many islands, has the world's largest coastline - almost 244,000 kilometres. Canada has more lake area than any other country in the world: the 8 per cent of the country covered by lakes and rivers is equal to a total area of 755,000 square kilometres covered by fresh water. Canada and the United States share the Great Lakes. Not only do these include three of the five largest lakes in the world, but also, in total, these lakes contain 25 per cent of the world's fresh water in lakes. Canadians are also the trustees of almost 25 per cent of all the world's wetlands; these cover 14 per cent of the country's land area. Although the terrain is generally flat or rolling in most parts of the country, Canada also has mountain ranges as massive as the Alps or the Urals. Some of the western mountains (the Rockies) are among the youngest ranges in the world, whereas the Laurentian uplands in the east are among the oldest.

4. Size, geology and climate give Canada a huge naturel resource base. Canada is a forest nation, ranking third in the world in terms of forested land, after Russia and Brazil. About 45 per cent of the landscape - 4.5 million square kilometres - is covered by trees, and, consequently, the forest industries are a major part of the Canadian economy and export base. Mineral wealth is substantial, with the result that Canada is the world's leading producer of nickel, uranium and zinc, and is a major producer of copper, gold, iron ore and potash. Canada has always been a major exporter of mineral products. The country's fuel resources are also very large. Adjacent to its Atlantic and Pacific coasts, Canada has substantial fisheries resources. Although most of the land is unsuitable for farming (farmland represents

only 7 per cent of the territory), there are large areas that are rich in arable soil such as the prairie region, the valley of the St. Lawrence River and southern British Columbia. Canada is well known as an exporter of grains (especially wheat).

5. Few countries can match the climatic diversity of Canada, which is not surprising, given the size of its land mass and the effects of its three ocean boundaries. In general terms, Canada is a northern nation with a northern climate. In the extreme north, there is no true summer - the temperature can fall below 0° C at any time of the year. In the south, the temperature is much milder, although most inhabited areas enjoy only about four frost-free months a year and, in most areas, the soil is covered with snow from December until late March. However, areas close to the Pacific coast have very mild, almost snow-free, winters.

6. Vast regions of Canada are unsuitable for much human settlement either because of the climate or because the land is inhospitable. As a result, only about 10 per cent of Canada is settled on a permanent basis. The settled region is a relatively narrow belt stretching along Canada's entire southern edge. It is, in fact, a large area, but Canada's population is predominantly urban - three quarters live in urban centres, and more than half of the total population lives in large centres - those with a population of 100,000 or more.

B. The people

7. On 1 July 1991, Canada's population was estimated at 28,120,100 using 1991 census counts adjusted for net undercount. Although Canada's population has continued to increase, its rate of growth declined steadily throughout most of the last four decades. The 1986-1991 period recorded the first increase in the intercensal growth rate since 1951, and the increase is attributed to a combination of increased immigration, decreased emigration and stable natural increases (increases in both births and deaths). The most recent population estimate at July 1995 is 29,606,100, with 50.5 per cent women and 49.5 per cent men. Just over three quarters of the population lives in urban areas (76.7 per cent). If recent trends in fertility, longevity and net immigration persist, Canada's population is projected to increase to 32 million by the year 2001.

8. The country's population has been ageing over the last few decades, primarily as a result of the decline in birth rates since the 1960s and increases in life expectancy. By 1995, 12 per cent of the population were aged 65 and older (58 per cent women and 42 per cent men), 61 per cent were of working age (20-64) and 20 per cent were under age 15 (49 per cent female and 51 per cent male). The median age in Canada is projected to rise from 35.5 years in 1997 to 38.1 years in 2005.

9. Different Aboriginal groups such as North American Indians, Métis and Inuit are part of the population. Over 4 per cent of the population reported Aboriginal origins in 1991.

10. Canada is often called a land of immigrants. According to the national census, the share of the population made up of immigrants has remained stable

during the past several decades at about 16 per cent. There has been, however, a substantial change over the years in the origins of the immigrant population. Europeans still made up the largest share of immigrants living in Canada in 1991, but among those who arrived during the previous 10 years, almost half were from Asia and another 10 per cent were born in Central and South America. Immigrants are more likely than the Canadian-born population to live in large urban centres. While less than one third of Canada's total population lives in the three largest urban centres - Toronto, Montréal and Vancouver - over one half of the immigrant population lives in these centres. Just over 80 per cent of immigrants who were eligible to become Canadian citizens had done so by 1991, up from 75 per cent in 1981. Immigrants must reside in Canada for a minimum of three years before they are eligible to apply for citizenship.

11. Over the last 20 years, average family size has declined from 3.7 people to 3.1. Among children under the age of 15, most (86 per cent) live in a family with two parents present. The majority of families (65 per cent) have at least one child living at home. Lone-parent families accounted for 13 per cent of all families in 1991, and those headed by women continued to outnumber those headed by men by four to one.

12. The proportion of Canadians living in a family unit has slowly declined; more and more people in Canada live alone. In 1961, less than 10 per cent of all households were one-person households, but by 1991 this had risen to 23 per cent. Factors contributing to the growth in the number of people living alone are the ageing of the population and increases in marriage breakdown. Differences in mortality rates between men and women have continued to result in rising numbers of elderly widows living on their own. By 1991, close to 60 per cent of all people living alone were women.

13. Canada has two official languages, English and French. Sixty-three per cent of the population reported English as their mother tongue in the 1991 census (these figures include all people who reported one or more mother tongues). Twenty-five per cent reported a French mother tongue. The next largest groups were Italian, Chinese and German, which, when combined, represented less than 5 per cent of the Canadian population. Less than 1 per cent of the population reported an Aboriginal mother tongue in 1991.

Vital statistics

14. The birth rate has gradually declined over the past two decades to 14 births per 1,000 population in 1992. In that year, 398,642 babies were born (51 per cent female and 49 per cent male). The death rate stood at 6.8 per 1,000 population (8.9 for men and 5.2 for women) in 1992, down substantially from 9.3 in 1974. There were 196,535 deaths in 1992. With the exception of children younger than five, death rates ascend with age in Canada.

15. Marriages have dropped over the last two decades from 8.7 per 1,000 population in 1974 to 5.8 in 1992. Over a decade, divorce rates rose slightly, from 2.7 per 1,000 population in 1983 to 2.8 in 1992, when the median duration of a marriage ending in divorce was 10 years.

16. Over the past decade, there was a dramatic increase in the proportion of younger adults who remained unmarried. Among women aged 20 to 24, 61 per cent had never married in 1981 compared to 79 per cent in 1991. During the same period, the proportion of men aged 20 to 24 who had never married rose from 79 per cent to 91 per cent. Similar patterns were observed for men and women aged 25 to 34.

17. Life expectancy in Canada has increased steadily over the decades to become among the longest in the world. Female babies born in 1993 can expect to live 81 years on average, and males can expect to live 74.9 years. Aboriginal life expectancy has risen, narrowing the gap separating it from the life expectancy of non-Aboriginal Canadians. Aboriginal life expectancy at birth was about five years less than for the total Canadian population in 1991, for both males and females.

18. In 1993, the total birth rate (the number of children a Canadian woman can expect to have in her lifetime based on the age-specific birth rates of 1993) was 1.66, below the population replacement level of 2.1. Over the past decade, age-specific birth rates for women younger than 30 have generally declined, and they have increased for women older than 30. Among Aboriginal peoples, 1991 estimates for total birth rates vary significantly by Aboriginal group and place of residence, from 3.3 for North American Indians on reserves to 1.9 for non-status Indians in urban areas and 2.3 for urban Métis.

19. The infant mortality rate per 1,000 live births in 1992 was 6.1. The rate was higher for male newborns (6.8) than for females (5.4). Infant mortality rates have declined steadily for the past two decades, from 15 per 1,000 live births in 1974. The maternal mortality rate stood at 4.8 per 100,000 live births in 1992.

20. Birth weight is related to the health of a mother and is acknowledged to be a key predictor of an infant's chances of survival. The World Health Organization considers the percentage of newborns weighing at least 2,500 g to be an essential global indicator for monitoring progress in improving health. In Canada, the percentage of newborns with a weight above 2,500 g increased over the 1970s and 1980s to a rate of 94.5 per cent in 1992.

Socio-economic characteristics

21. The Census of Canada allows for reporting of one (single) or more (multiple) ethnic origins. In 1991, 71 per cent of the population reported single ethnic origins and 29 per cent reported multiple origins. Although people with British or French backgrounds still made up the largest ethnic groups, neither group accounted for a majority of the population. Over 30 per cent of the population reported an ethnic background that did not include British or French origins. There is considerable regional variation in the 10 most frequently reported ethnic origins, reflecting, in large measure, where immigrants have settled over time. Over 1 million Canadians, or 4 per cent of the population, had Aboriginal origins (North American Indian, Métis or Inuit) in 1991.

22. Historically, Canada's population has been predominantly Christian. In 1991, nearly 84 per cent of the population was Christian, with 46 per cent

Catholic and 36 per cent Protestant and over 1 per cent Eastern Orthodox. The proportion of people reporting another religion rose to about 4 per cent, with just over 1 per cent reporting Jewish religion. The proportion of people who reported no religion also rose to over 12 per cent.

23. Literacy measures, including reading, numeracy and writing skills, were developed and measured in Canada in 1989. About 62 per cent of Canadians aged 16 to 69 have sufficient reading skills to deal with most everyday reading requirements. A further 22 per cent can use reading materials to carry out simple reading tasks within familiar contexts. The reading skills of 16 per cent are too limited to allow them to deal with most written material encountered in everyday life. Similarly, 62 per cent have numeracy skills enabling them to deal with printed material requiring a simple sequence of numerical operations, 24 per cent do not possess the skill necessary to meet most everyday requirements, an additional 14 per cent can at most locate and recognize numbers. In terms of writing skills, 88 per cent can write a simple message and 62 per cent can write a letter such as a letter requesting the repair of an appliance. Overall, the literacy distributions are quite similar for the adult female and male populations who undertook English or French literacy tests.

24. People with some post-secondary education (university, college or training institute) reached a historical high in 1991 at 43 per cent of all people aged 15 and older. Almost half (45 per cent) of the people with university degrees were women, a proportion that has steadily increased. The proportion of Canada's youth and young adult population who were attending school full-time grew from 66 per cent in 1981 to 80 per cent in 1991. Among those in school and aged 20 to 24, close to one third combined employment with full-time studies.

Population aged 15 and older, per cent distribution by highest level of schooling completed - 1991

	Elementary	Secondary	Some post-secondary	University degree
Total	14.3	42.6	31.7	11.4
Men	14.3	41.8	31.0	12.8
Women	14.3	43.3	32.4	10.0

25. In addition to a formal education system, both governments and businesses sponsor employee training in Canada. Almost one third of all full-time workers aged 20 to 69 took employer-supported education or training in 1991, but rates varied greatly depending on the worker's occupation. Almost half of all workers in white-collar occupations received such training, but just over one quarter of service workers and one fifth of blue-collar workers received employer-supported training.

26. The majority of people aged 15 to 54 are in the labour force; however, participation rates vary by age and sex. One of the most significant trends

in the Canadian labour market over the past 20 years was the continuing increase in the proportion of women aged 15 and older who were in the labour force (from 40 per cent in 1971 to 60 per cent in 1991).

27. In 1995, women were much more likely than men to work part-time. Among women who worked, 24 per cent worked part-time compared to 6 per cent of men. In 1995, the employment rate (employment to population ratio) was 58.6 per cent, about four points below its pre-recession level in 1989. The unemployment rate declined to 9.5 per cent in 1995 from its peak of 11.3 per cent in 1992.

28. Per capita average income was $22,128 in 1994. In 1994, for the population aged 15 and older with income, the average was $24,394, of which $18,688 for women and $29,927 for men. The earnings ratio of women to men for full-year, full-time workers was 72 per cent in 1993. Most income information in Canada is produced for families, or the economic units in which people live. In 1993, average family income was $53,459, down for the fourth consecutive year after adjustment for inflation - the longest and deepest decline in family income in four decades.

Labour force annual averages - 1995						
	Labour force	Employment	Unemployment	Unemployment rate	Participation rate	Employment rate
	000s			%		
Total	14,927.6	13,505.5	1,422.1	9.5	64.8	58.6
Men	8,197.6	7,396.5	801.1	9.8	72.5	65.4
Women	6,730.1	6,109.0	621.0	9.2	57.4	52.1

29. In 1993, 5.1 million people (18 per cent of the Canadian population) lived below Statistics Canada's Low Income Cut-offs. Families with incomes below cut-offs spent 55 per cent or more of their income on food, shelter and clothing in 1992. These cut-offs vary by geographical residence and family size. About one in five children younger than 18 (1.5 million children) lived in low-income families in 1993, surpassing the previous high seen in 1984. More than one half of people aged 65 and older who lived alone had low incomes in 1993, although rates have declined over the last two decades. Among family types, female lone-parent families have historically had the highest rates of low incomes; in 1993 this rate stood at 59 per cent.

30. The consumer price index (used to measure inflation of consumer prices) was about 34 per cent higher in 1995 than in 1986. Inflation in Canada has been relatively stable over the last decade, measuring annual increases of less than 6 per cent, and less than 2 per cent from 1992 to 1994.

31. Gross domestic product (value of production within the boundaries of Canada, regardless of ownership) posted a real growth of 4.6 per cent in 1994 bringing it to $748,606 million. Gross national product (the value of production by Canadian-owned domestic and international factors) stood at $720,066 million for 1994. Canada's external debt stood at $341,700 million.

II. GENERAL POLITICAL STRUCTURE

32. Federalism, constitutional monarchy, a parliamentary system on the British model and representative democracy are essential characteristics of the Canadian political system. Geographical, economic and social factors have endowed Canadian political life with an original style. Although the political structures are the same today as they were when the federation came into being in 1867, the framework, the process and the spirit of Canadian political life have evolved tremendously.

A. Political history

33. Canada's political development began long before the arrival of the first European settlers. Over a long period of time, the Aboriginal peoples of Canada had developed a variety of languages, cultures and systems of government, and entered into alliances and treaties with each other.

34. Jacques Cartier arrived in Canada in 1534 and claimed it as a French possession in the name of the King of France. In 1608, Samuel de Champlain settled in Québec to establish a colony named New France. Meanwhile, Great Britain also established colonies in North America. New France settlers lived under French rule until the end of the Seven Years War, which was marked by the capitulation of Québec in 1759 and Montréal in 1760. By the Treaty of Paris of 1763, France gave up what was then Canada to Great Britain.

35. Canada continued to develop under British rule. The Royal Proclamation of 1763 allowed the colony of "Québec" to have its own government. On the eve of American independence, the British Parliament passed the Québec Act of 1774, which re-established the use of French civil law. Following the American Revolution and the arrival in Canada of many loyalists, the Constitutional Act of 1791 divided the colony into two provinces, Upper and Lower Canada, and created elected legislative assemblies.

36. In 1837/38, there were revolts in Upper and Lower Canada, and the government was suspended. The British Parliament passed the Union Act in 1840 by which Upper and Lower Canada were joined in a single province: the Province of Canada. Some years later, the system of responsible government was introduced: laws had to be passed by Parliament, and the executive needed the support of the majority of the legislative assembly to stay in power.

37. Between 1864 and 1867, the political leaders of three colonies, the Provinces of Canada, Nova Scotia and New Brunswick, met to examine the possibility of creating a new federal union. In 1867, at their request, the British Parliament enacted the British North America Act (now called the Constitution Act, 1867), by which four provinces - Ontario (formerly Upper Canada), Québec (formerly Lower Canada), Nova Scotia and New Brunswick - united to form the new Canadian federation.

38. Manitoba joined the federation in 1870, followed by British Columbia in 1871, Prince Edward Island in 1873, Alberta and Saskatchewan in 1905 and Newfoundland in 1949. At present, the federation is composed of 10 provinces and 2 territories, the Yukon and the Northwest Territories. A third territory, Nunavut, will be created in 1999 from a part of the Northwest Territories.

39. Although the Constitution Act, 1867 was the product of multilateral negotiations, it has also been viewed by some, particularly with regard to certain of its provisions, as an agreement between English-Canadians and French-Canadians. This characteristic is particularly evident in the provisions that established, for both the central Government and the province of Québec, a form of official bilingualism in parliamentary, legislative and judicial matters.

40. The Constitution Act, 1867 did not make Canada an independent country. Canada achieved international sovereignty through a process of devolution of powers by the United Kingdom, which lasted nearly 60 years; the completion of this process was marked in 1931 by the Statute of Westminster, which formally established the federal Government's jurisdiction over foreign affairs.

41. Although Canada then had full sovereignty in political terms, the cooperation of the British Parliament was still needed to amend major portions of the Canadian Constitution. This situation lasted until 1982, when an amending formula was adopted bringing the power to change the Constitution within the sole control of Canada.

B. The Constitution

42. The Constitution of Canada includes two main documents (the Constitution Acts of 1867 and 1982) and a set of unwritten conventions inherited from the British tradition. The focus of the main documents is the division of powers between the Parliament of Canada and the provincial legislatures, and the protection of individual rights and freedoms in the Canadian Charter of Rights and Freedoms, which is part of the Constitution Act, 1982. However, the Constitution is silent as to certain essential rules concerning the relationship among the organs of the State. This may be explained by the fact that the Constitution of Canada is based on the same principles as the Constitution of the United Kingdom, where the manner in which political institutions function is governed largely by domestic unwritten rules that are called "constitutional conventions".

43. The oldest conventions relate to responsible government. These conventions ensure that the powers of the State are exercised in accordance with the wishes of the electorate; they relate to ministerial responsibility, the selection of the Cabinet and prime minister, the dissolution of Parliament and the giving of royal assent to bills. A second category consists of conventions such as the legislative autonomy of the Dominions, which arose during the gradual transformation of the British colonial empire into the Commonwealth, in which Canada, and other former colonies, have achieved independent status.

44. In addition, legislation concerning the organization and functioning of public authorities such as the legislation relating to federal and provincial elections, the Parliament of Canada, the provincial legislative assemblies, the courts or the public service, are also part of the Constitution in broad terms. Finally, the courts play an important role in applying and adapting the Constitution to new circumstances and ideas.

C. Political framework and type of government

45. Generally speaking, the Canadian political system embodies the four following characteristics: it is a constitutional monarchy; it is a federal system; it is a parliamentary system on the British model; and it is a representative democracy.

46. As a constitutional monarchy, the head of State is a monarch, the Queen of Canada, who is the Queen of England. Since the Queen of Canada could not be present on a permanent basis in Canada, her representative, the Governor General, was appointed by Her Majesty on recommendation of the prime minister, to exercise her powers on her behalf. Acting only on the advice of the Prime Minister and Cabinet, the Governor General convenes, prorogues and dissolves Parliament, assents to federal legislation, and performs certain executive, ceremonial and military duties.

47. Canada has a federal system in which the Constitution confers legislative and executive powers on two levels of government, which are each sovereign in their respective spheres. There is a central Government for all Canada, and a government for each province and territory. At the federal level, the executive power is exercised by a Governor General and, at the provincial level, by a Lieutenant Governor, both representing the Queen, and acting on the advice of the federal and provincial Cabinets, respectively.

48. The federal legislative power resides in the Parliament of Canada, which consists of the Governor General, the Senate and the House of Commons. In the provinces, the legislative power resides in a legislature made up of the Lieutenant Governor and a legislative assembly. As in all federations, the division of legislative powers is a very important aspect of the system of government. As a general rule, the Constitution gives the Parliament of Canada control over matters that are national in character, and gives the provincial legislatures jurisdiction in matters of a local nature.

49. Canada has a parliamentary system. The people of Canada elect their representatives at both levels of government, federal and provincial or territorial. The party that obtains the majority of seats is called to form the government. For both the federal and provincial governments, the members of the Cabinet are therefore chosen from the members of the majority party of the House of Commons (federal level), or of the provincial or territorial legislative assembly, respectively. At the federal level, the leader of the party (which is determined by elections by members of that party) that obtains the majority of seats becomes Prime Minister of Canada, and chooses his or her ministers. Similarly, in each province and territory, the premier (the equivalent of prime minister) of the province or territory chooses his or her ministers. Proposed legislation prepared by the federal or provincial Cabinet cannot become law without the approval of the Parliament or the provincial legislature.

50. Canada is a democracy, which means that power is vested in all its people and exercised by them through a system of representation determined by free elections. The executive branch is responsible to the people's representatives for all of its actions and decisions. The government may be defeated in the House of Commons or the legislative assembly by a vote

of non-confidence, and, in that case, the Governor General or the Lieutenant-Governor is required to order that a new general election be held. The democratic character of the political system is also assured by the separation of the judicial branch and the executive branch. The independence of the courts is one of the fundamental guarantees of democracy.

D. The legislative branches of the federal and provincial governments

51. Federal legislative power resides in Parliament, which consists of the Governor General, the Senate and the House of Commons. They must all agree to the enactment of a statute, the two Houses by voting for the bill and the Governor General by giving royal assent on behalf of the Queen. In reality, the Governor General's role in the legislative process is purely a formality (albeit an essential one), since he (or she) may not in practice refuse to give royal assent to a bill enacted by the two Houses.

52. The composition of the House of Commons is based on the principle of proportional representation by population: the people of each province elect a number of members of Parliament that is more or less proportional to the population of the province. All members are chosen by being elected in single-member constituencies on the basis of receiving the largest vote in the constituency. To be entitled to vote in a federal election, a person must be a Canadian citizen and have reached the age of 18. The total number of members and the distribution of seats among the provinces are revised following every decennial census. At present, based on the 1991 census, there are 301 members of the House of Commons: 1 representative for each electoral district. Ontario has 103, Québec 75, British Columbia 34, Alberta 26, Saskatchewan 14, Manitoba 14, Nova Scotia 11, New Brunswick 10, Newfoundland 7, Prince Edward Island 4, the Northwest Territories 2 and the Yukon 1.

53. The Senate is a body whose members are appointed by the Prime Minister of Canada. The Senate has 104 members: 24 representatives from the Maritime Provinces (10 from Nova Scotia, 10 from New Brunswick and 4 from Prince Edward Island), 24 from Québec, 24 from Ontario, 24 from the western provinces (6 each from Manitoba, Saskatchewan, Alberta and British Columbia), 6 from Newfoundland, 1 from Yukon and 1 from the Northwest Territories. Senators hold office until they reach the age of 75. In legal terms, the Senate may seek amendments to any bill presented by the government; if it is not satisfied, it may refuse to consent to the bill.

54. Parliament must sit at least once every 12 months. The term of a Parliament, which is a maximum of five years, may consist of several sessions. Each session begins with the election of the Speaker of the House of Commons, followed by the Speech from the Throne, in which the government outlines its most important policies. A session is normally prorogued or adjourned after eight to nine months of sittings (a sitting is a one-day meeting). When a session is prorogued, all bills that have not yet been adopted or given royal assent die, and the legislative process must be commenced again at the next session. Increasingly, sessions are adjourned rather than prorogued to ensure continuity and flexibility.

55. A minister who intends to present a bill in the Commons asks, by motion, to introduce the bill for first reading and printing. Normally, the bill passes this stage automatically. At a later sitting, the bill's sponsor moves second reading, which leads to debate on the basic principles of the bill only. If the vote at the end of the debate is favourable, the bill is sent to a legislative committee of the House to be debated clause by clause. At that stage, experts and persons or groups with an interest in the bill may be invited to address the committee. Once the committee has completed its work, it reports to the House and submits the bill to it with the amendments passed, if any. At this stage, any member has the right to present further amendments, which are discussed and put to a vote. The bill's sponsor then moves third reading and passage of the bill. If the vote is favourable, the bill is sent to the Senate, where it follows the same steps, broadly speaking. Once it has been passed by both Houses, the bill is submitted to the Governor General for royal assent. Federal statutes normally come into force at the time they receive royal assent. However, Parliament can fix another date in the statute or delegate to the government the power to fix the date by proclamation.

56. In the provinces, legislative power resides in a legislature composed of the Lieutenant Governor and the legislative assembly. There is no upper chamber. The legislative assembly bears a substantial resemblance to the House of Commons, and operates in a very similar manner. The members are elected in ridings that are delineated by the legislature more or less in proportion to the population. The candidate who receives the most votes is elected. All bills must go through the various stages of the process for passage by the legislative assembly and must receive royal assent from the Lieutenant Governor before they can become law.

57. Before 1982, the principle of legislative supremacy applied in Canada, with certain adjustments made necessary by the division of legislative powers between Parliament and the provinces. The power of the courts to review the constitutionality of legislation gave the courts authority only to determine whether a statute had in fact been enacted by the legislative body having the necessary jurisdiction. With the enactment of the Canadian Charter of Rights and Freedoms, a limit has been placed on the sovereignty of Canada's legislatures, both federal and provincial. Federal and provincial statutes must comply with the provisions of the Charter as interpreted and applied by the courts.

E. The division of legislative powers between federal Parliament and the provinces

58. The Constitution Act, 1867, defines the federal and provincial responsibilities. The present division of powers results, in part, from the application and the interpretation of the wording of the Constitution by the courts.

59. Federal Parliament has the power to levy taxes by any mode of taxation, and the federal Government has the authority to allocate its financial resources as it deems appropriate. The federal Government can, for example, make grants to individuals with a view to promoting research and development. The federal Government also uses its spending power to initiate shared-cost

programmes in areas of health, education and welfare services in the provinces. Finally, the federal Government initiated a programme of equalization payments to provinces whose revenues were below the national average. These unconditional payments were designed to help these provinces provide an appropriate range of public services.

60. Monetary policy is controlled by the federal Government. This includes responsibility for issuing currency and for the national economic stability to manage unemployment and inflation, control of the banking system and regulation of interest rates. Monetary policy includes responsibility for the value of Canadian currency on international markets. The task of setting and applying monetary policy is assigned by the federal Government to the central bank, the Bank of Canada.

61. Parliament has jurisdiction over international and interprovincial trade. It also has exclusive jurisdiction over customs duties. Standardization of products intended for international or interprovincial trade and export quotas are within Parliament's jurisdiction. General foreign investment policy is also under its authority.

62. The federal Government has jurisdiction over defence and relations with other States and has authority to enter into international treaties. However, either or both the federal Parliament and the provincial legislatures may have jurisdiction to implement treaties, depending on whether the subject matter of the treaty comes under federal or provincial responsibility as defined in the Constitution. This system operates through federal-provincial cooperation: before entering into a treaty relating to fields that do not fall solely within the jurisdiction of Parliament, the federal Government ensures that it has the consent of the provinces to cooperate in implementing the treaty (see also paragraph 138).

63. Other matters within Parliament's jurisdiction include navigation and shipping, fisheries, bankruptcy, Indians and lands reserved for Indians, naturalization, citizenship, criminal law, patents and copyrights. The postal service and employment insurance are within federal jurisdiction.

64. Any matter that is not within the jurisdiction of the provincial legislatures is automatically assigned to the federal Parliament. In interpreting federal and provincial powers, the courts have held that certain new subject matters, such as air transportation, are under the jurisdiction of the federal Parliament by virtue of its general power to make laws for the peace, order and good government of Canada in relation to all matters not assigned exclusively to the legislatures of the provinces. The courts view the general federal power as including a power to legislate in emergencies such as war.

65. The provinces have numerous legislative powers, including authority over property and civil rights (primarily proprietary, contractual or tortious rights), natural resources, works and undertakings of a local nature, and, generally, all matters of a merely local and private nature. The courts have interpreted the provincial powers, especially "property and civil rights", as covering a very wide field. The Constitution does not mention labour

relations specifically, but the courts have placed that subject under provincial jurisdiction, except for certain industries that are under federal jurisdiction for other purposes, such as navigation and shipping industries.

66. Services and institutions that fall within provincial jurisdiction include health and social services, municipal institutions and land development, the administration of justice, the development and organization of provincial courts of both civil and criminal jurisdiction, and education.

67. The provincial legislatures have the power to levy direct taxes (e.g. income taxes) within the province, to raise revenue for provincial purposes. In addition, the provinces are given the power to levy direct and indirect taxes in relation to natural resources. The provinces also have the power to issue licences to raise revenue for provincial or municipal purposes.

68. The Constitution assigns concurrent jurisdiction over agriculture and immigration to the provincial legislatures and Parliament. Federal legislation will prevail in the event that it is inconsistent with provincial legislation. The provinces also share jurisdiction with the federal Government in relation to old age pensions.

69. The powers of the provincial legislatures are limited to those given to them by the Constitution. This means that no provincial legislature can take over powers that belong exclusively to Parliament. Similarly, Parliament cannot take over powers that belong exclusively to the provinces. Although Parliament and the provincial legislatures cannot interdelegate legislative powers, Parliament can delegate powers to provincial agencies and a provincial legislature can likewise delegate powers to a federal agency. Parliament and a provincial legislature can adopt as its own legislation of the other level of government, as long as they both act in their area of jurisdiction.

F. The executive branches of the federal and provincial governments

70. At the federal level, in principle, the executive power is exercised by the Governor General, representing the Queen and acting on the advice of the Cabinet, that is, the federal ministers. In reality, executive power lies with the Cabinet, because the Governor General acts on its advice as described in paragraph 46.

71. The Governor General must appoint a person to be prime minister who is able to secure the support of a majority of the members of the House of Commons; that is, in practice, the leader of the political party that has an absolute majority of the seats in the House, except in the case of the establishment of a minority government. The prime minister is nearly always a member of the House of Commons; otherwise, he or she must be elected to the House as soon as possible.

72. After being appointed, the prime minister normally chooses the other members of the Cabinet from among the members of the House of Commons. A minister who is appointed to the Cabinet and who is not a member of Parliament normally becomes a member within a reasonable time, usually by getting elected to the House of Commons in a by-election. The federal Cabinet is composed of

about 25 ministers. Most ministers have a "portfolio", that is they are responsible for particular government fields and departments such as Finance, Treasury Board, Health, Justice, Environment, and so on.

73. The Cabinet is collectively responsible to the House of Commons for its policies. This means that it may continue to govern only so long as it enjoys the confidence of a majority of the members of the House. The consequence of this principle of collective responsibility is Cabinet solidarity: each member of Cabinet must support the decisions made by the Cabinet, even if he or she personally disapproves of them, or must resign. Each minister with a portfolio is also responsible, again to the House of Commons, for the operations of his or her department.

74. Nowadays, it is rare to find a situation in which the Cabinet does not have the support of a majority of the members of the House, given that governments in Canada are normally elected with a parliamentary majority and the prime minister exercises strict party discipline over his or her members. In each party, there is a whip who is either appointed or elected by leaders of the party to ensure respect of party discipline, through different means at his or her disposal including deciding who will participate in the debate. The government whip ensures that a sufficient number of members are present when there is a vote, so that the government does not lose its majority.

75. If the government is defeated in the House of Commons on a lack of confidence motion, the prime minister, in most cases, must ask the Governor General to dissolve the House of Commons and thus trigger an election. However, if no political party holds an absolute majority of the seats in the House of Commons, it is possible for the Governor General to ask the leader of the party that appears to be able to govern with the support of a majority of the members of the House to form a minority government.

76. As is the case for the federal Government, the executive power in each province is exercised by the Cabinet, which governs as long as it has the confidence of a majority of the members of the legislative assembly. Within the Cabinet, the provincial premier occupies the same predominant position as the federal prime minister. Cabinet is accountable for its policies to the legislative assembly, and, if it loses the support of a majority of the members, the premier must ask the Lieutenant Governor to dissolve the assembly to call an election.

77. In Canada, following the British tradition, the executive branch is subject to the legislative and judicial branches; accordingly, the administrative arm of the federal and provincial governments is subordinate to the legislative bodies and to the courts. These facts may be explained by the principle of the rule of law, which holds that any action taken by the government and its administrative organs in relation to the individual must be founded on a pre-established legal rule that authorizes such action. The rule of law also means that everyone is subject to the legislation, regulation and common law, which is applied by the courts; this means that the courts determine the legality of the actions of the administrative arm of the government.

G. The judicial branch

78. The Canadian judicial system consists of superior courts and lower courts. The first, as courts of original general jurisdiction, have inherent jurisdiction, which makes it possible for them to hear anything that is not within the limited exclusive jurisdiction of a lower court, and to have superintending and reforming power over the lower courts. On the other hand, the lower courts have only the jurisdiction expressly conferred on them by the competent legislative body. Lower and superior courts have jurisdiction regarding the constitutionality of legislation.

79. Each province has a superior trial court and a court of appeal. These superior courts are constituted by the provincial legislature, but their members are appointed and paid by the federal Government. As well, in each province, there are lower courts - provincial or municipal courts - which the legislatures create and whose members are appointed by provincial governments.

80. The Supreme Court of Canada, which was established in 1875 by the Parliament of Canada, is the general appellate court of last resort for all of Canada. As the final interpreter of the Constitution, its decisions may influence the direction of federalism, in terms of the division of powers, or may question the constitutionality of government policies, in terms of human rights and fundamental freedoms.

81. Parliament has also established the Federal Court, which has particular jurisdiction to hear cases involving the federal Government and to review the decisions of federal boards, commissions and tribunals. In addition, both federal and provincial legislation assign functions to administrative tribunals that are essentially judicial. These specialized tribunals have specific responsibilities such as immigration, international trade, competition, radio-television and telecommunications, securities and residential tenancies, etc.

82. Although powers with respect to the judiciary are distributed between the federal Government and the provinces, integration is a primary characteristic of the Canadian judicial system. The provincial courts can determine matters of both federal and provincial law, and there is no distinction between constitutional, administrative, criminal and civil jurisdiction. The integration is further reflected in the fact that all cases, whether arising under federal or provincial law, are capable of ending up in the same final appeal court, the Supreme Court of Canada.

83. The Canadian courts operate independently of the federal and provincial legislative bodies and governments. The Constitution Act, 1867, adopted the judicial independence features that had been introduced in Canada in the earlier decades. The Canadian Charter of Rights and Freedoms also protects judicial independence.

84. Financial security and security of tenure are crucial aspects of judicial independence. Judges' salaries are established by law and are not

subject to arbitrary interference by the executive. According to the Constitution, judges of the superior courts have security of tenure until the age of 75 years. Retirement age for provincial court judges varies across the country.

85. The only procedure for removing a superior court judge in Canada today is on address to the Governor General by the Senate and House of Commons. The Acts establishing the Supreme Court of Canada and the Federal Court are to the same effect. No judge of any Canadian superior court has ever been so removed. Provincially appointed judges can, in most provinces, be removed by the Cabinet following recommendations by provincially created judicial councils.

86. Immunity from lawsuits protects the judge from possible intimidation and harassment. This is widely accepted in all jurisdictions. Judges of the superior courts enjoy immunity from suit, or harassment, for acts and omissions in their official capacity. Immunity also applies to judges of the lower courts and of administrative tribunals because specific legislation grants them immunity in most cases.

H. Territories

87. The Yukon and the Northwest Territories have legislative, executive and judicial powers that are becoming similar to those exercised by the provinces. The constitutions of the two territories are set out in the Yukon Act and the Northwest Territories Act, which, reflecting the special status with the Confederation, are federal statutes.

I. Municipalities

88. Municipal governments (cities, towns, villages and metropolitan regions) are created by the provincial legislatures and have such powers as the legislatures see fit to give them. Mayors and municipal councillors are elected in accordance with the requirements laid down by the legislature. Throughout Canada, there are some 5,000 municipal governments. These governments provide Canadians with such services as water supply, sewage and garbage disposal, roads, sidewalks, street lighting, building codes, parks, playgrounds, libraries and so on. Schools are generally administered by school boards elected according to provincial legislation.

J. Self-government arrangements

89. The federal Government, in cooperation with some provinces, participates in negotiations for self-government with the Aboriginal peoples of Canada. These self-government arrangements can take a variety of forms, and are designed to meet the objectives of the specific Aboriginal community or group. They range from increased authority under existing legislation to more complex arrangements set out in legislation specific to individual communities or provided for in the context of comprehensive land claims agreements.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other competent authorities having jurisdiction affecting human rights

General

90. The legislative, executive and judicial branches of government share responsibility for the protection of human rights in Canada. Relevant legislation is enacted by Parliament, and the provincial and territorial legislatures. Numerous departments and agencies formulate policies and programmes in accordance with their respective mandates.

91. Within each government, there is usually a minister who carries the main responsibility for human rights. In the provinces and territories, this is normally the minister responsible for human rights legislation. At the federal level, the Minister of Canadian Heritage is responsible for promoting a greater awareness of human rights, and for federal-provincial-territorial coordination regarding implementation of international human rights treaties that Canada has ratified. The Minister of Justice examines all federal bills to ensure their conformity with the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights, and has legislative responsibility for the Canadian Human Rights Act. The Minister of Justice also provides advice on consistency of domestic law, or proposed law, with Canada's international human rights obligations. The Minister of Foreign Affairs and International Trade has responsibility at the international level for human rights issues.

92. The primary role of the judicial branch of government in the human rights area is providing redress to individuals for violations of their human rights. More generally, as an integral part of the adjudication of disputes, the courts interpret the Canadian Charter of Rights and Freedoms and human rights codes or legislation, as well as other relevant legislation, and are responsible for the development of the common law ("judge-made law"). The Supreme Court of Canada has stated that the common law must be interpreted, developed and, if necessary, amended to reflect the values of the Canadian Charter of Rights and Freedoms.

Authorities with jurisdiction to provide redress for human rights violations

93. In Canada various modes of redress for human rights violations are available, depending on the nature of the right infringed and the form of remedy sought. Relevant authorities include the courts, statutory bodies created to administer particular legislation (variously known as commissions, boards, committees or tribunals) and ombudsmen.

94. The courts in Canada have jurisdiction to determine whether there have been violations of the Canadian Charter of Rights and Freedoms. Violations of the Charter are frequently brought to the attention of the courts in the course of criminal trials, where they may lead to acquittal if established. Many statutes relevant to the implementation of human rights involve recourse to the courts, e.g. child-protection legislation, and, in Québec, the Civil Code and the Québec Charter of Human Rights and Freedoms. The courts also

decide actions based on the common law, and have an inherent jurisdiction over children and other persons unable to protect themselves, known as the parens patriae jurisdiction, of particular relevance in the context of the Convention on the Rights of the Child. Decisions of boards and tribunals are subject to judicial review.

95. The primary means of enforcing the human rights codes (dealing mainly with discrimination) which have been enacted everywhere in Canada is through the human rights commissions established under them. Individuals who claim to be victims of discrimination may file complaints with the appropriate commission. These complaints are investigated, and there may be a conciliation process. If necessary, a board of inquiry or human rights tribunal determines the legal merits of the complaint.

96. Other legislation, particularly in the social and economic area, may establish statutory bodies to consider complaints relating to its administration. For example, at the federal level, the Veterans Review and Appeal Board hears complaints from veterans regarding determinations of entitlement to pensions, and, at the provincial level, in Manitoba, the Social Services Advisory Committee considers complaints regarding entitlement to social assistance under the Social Allowances Act.

97. In most provincial jurisdictions, police commissions or similar bodies have been established to review complaints against the police. Increasingly, these bodies operate independently of the police. The RCMP Public Complaints Commission deals with complaints against the Royal Canadian Mounted Police, and the Correctional Investigator reviews complaints from detainees in federal penitentiaries.

98. Most provinces have created the position of ombudsman. Although the duties of an ombudsman vary, generally the ombudsman has the duty and power to investigate complaints against departments or agencies of the provincial government. The decisions of the ombudsman are passed on to the government in the form of recommendations and are made public. Independence is an important attribute of this officer, who reports annually to the legislature.

99. The Government of Canada has established positions of a similar nature in certain areas within its jurisdiction. There is a commissioner to review complaints under each of the following acts: the Official Languages Act, the Privacy Act and the Access to Information Act. In Québec, the Commission d'accès à l'information has a similar role in applying the Loi sur l'accès aux documents publics et sur la protection des renseignements personnels.

B. Remedies available to individuals who claim that their rights have been violated, and compensation and rehabilitation for victims

100. Having reviewed the authorities with jurisdiction in Canada in the field of human rights, the present section outlines the nature of the remedies available, pursuant to the principal sources of legal protection of human rights in Canada - the Canadian Charter of Rights and Freedoms, human rights codes, penal and other legislation, the common law and the Civil Code in Québec.

Canadian Charter of Rights and Freedoms

101. Section 52 of the Constitution Act, 1982, provides that the Constitution of Canada is the supreme law of Canada, and that any law inconsistent with it is of no force and effect. Thus, if a challenge based on the Canadian Charter of Rights and Freedoms is successful, the courts may declare a law of no force and effect. The Supreme Court of Canada has stated that in certain circumstances, a declaration of invalidity may be temporarily suspended to permit the legislature to amend the law, or the court may reformulate the provision, so as to render it consistent with the Charter. It is not necessary for an individual to establish that his or her Charter rights have been violated to seek a declaration that a law is invalid pursuant to section 52, so long as a real and practical interest in the matter is established. Regarding administrative boards and tribunals, depending on the proper interpretation of their empowering statutes they may have jurisdiction under section 52 to declare a law inoperative for purposes of the case at hand.

102. Section 24 of the Canadian Charter of Rights and Freedoms permits anyone whose Charter rights have been infringed or denied to apply to a court of competent jurisdiction for an appropriate and just remedy. This section has been interpreted liberally to include remedies for future Charter violations, such as injunctions, and further to include the full panoply of remedies available in the court where the action is brought - for example, the granting of an order or declaration, damages (including compensation), costs, the quashing or staying of proceedings or the return of illegally seized goods. With respect to the question of whether administrative boards and tribunals, as well as the courts, have jurisdiction to grant Charter remedies, a Charter remedy will generally be available if the tribunal has jurisdiction over the parties, the subject matter of the dispute and the type of remedy sought.

103. The Court Challenges Programme funds court challenges of federal and provincial legislation based on the official-language rights guaranteed by the Canadian Charter of Rights and Freedoms, and of federal legislation based on the equality rights in the Charter. The programme is funded by the Government of Canada and administered by an independent Court Challenges Programme Corporation, which is composed of representatives from the private bar, non-governmental organizations and academics.

Anti-discrimination legislation (human rights codes and legislation)

104. The process for making a complaint under a human rights code is informal and accessible - a simple form is filled out by the complainants who are usually assisted in initiating the process. With some variations, the general model for processing complaints is as follows: the human rights commission inquires into the complaint and tries to obtain a settlement between the parties; if a settlement cannot be reached, the commission dismisses the complaint or refers it to a human rights tribunal or board of inquiry, which holds a public hearing. Human rights commissions carry the complaint before a tribunal or board of inquiry at no cost to the complainant.

105. If the tribunal or board of inquiry concludes that a person has engaged in a discriminatory practice, it may make an order, which is enforceable through the court. The person who has engaged in the discriminatory practice may be ordered to cease such practice, to take measures to reverse the effects of discrimination, such as rehiring the victim, to pay compensation or to adopt an affirmative action programme. Decisions of boards of inquiry or tribunals are subject to judicial review.

Penal justice

106. In the penal area there is increasing emphasis in Canada on victims' rights, and dispositions involving the payment by offenders of reparation to victims of crime. Under the Young Offenders Act, young persons may be ordered to pay compensation for loss or damage, or to make restitution of property. Amendments to the Criminal Code on sentencing reform were enacted in 1995 to assist victims of crime by strengthening the existing process for awarding and enforcing restitution to victims.

Other remedies

107. As indicated above, other legislation relevant to the implementation of international human rights instruments, including in the economic and social area, may contain specific complaint mechanisms. Furthermore, some statutory bodies have been created that provide compensation, for example, to victims of crime or for injuries in the workplace. On occasion, Parliament or the legislatures of the provinces and territories enact legislation to provide financial or other assistance to specific individuals or groups who allege that they have been subject to a miscarriage of justice or other violations of human rights.

108. The common law also contains remedies for violations of some human rights - for example, damages (including compensation) may be sought for wrongful dismissal from employment or defamation of character. The parens patriae jurisdiction of the courts may be invoked to provide relief on such matters as custody, protection of property, health problems, religious upbringing and protection from harmful associations (in circumstances where there is no legislation in place governing these issues).

109. Non-litigious dispute resolution is a multidisciplinary field which is rapidly evolving in Canada, and involves both lawyers and non-lawyers practising in a variety of subject areas. Non-litigious dispute-resolution processes, such as negotiation, mediation and arbitration, may be used either independently or as complements to litigation. The range of remedies is broad and diversified, including compensation (financial or other), apologies, reinstatement and compliance agreements. The use of alternative dispute resolution varies from one province to another, and also within the federal sphere. There is a growing demand in Canada for these alternative approaches to conflict resolution, and governments increasingly rely upon them for the resolution of disputes to which they are a party.

110. In the consolidated guidelines for the initial part of the reports of States parties, which provides the framework for core documents, information

is specifically requested on what systems of rehabilitation exist for the victims of human rights violations. Generally, the Canada Health Act, which establishes the criteria and conditions that must be met for provincial health systems to be eligible for federal funding, states in section 3 that the "primary objective of Canadian health care policy is to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers".

111. Provincial health care systems provide services and facilities which may be of assistance in restoring the physical and mental well-being of individuals whose human rights have been violated. For example, in Ontario, the Schedule of Benefits - Physician Services, under the Health Insurance Act, provides coverage for psychotherapy and counselling. There are also federal assistance measures for individuals within the jurisdiction of the Government of Canada, for example, members of the armed forces, veterans and Aboriginal peoples. Individuals whose human rights have been violated may avail themselves of these various services and facilities. In regard to the cost of rehabilitation measures not covered by the health care system, recovery may be sought as part of a compensation award in a civil action.

112. Federal, provincial and municipal governments have undertaken extensive and wide-ranging initiatives to assist victims of violence, particularly women and children, whether such violence is encountered in the streets, the workplace or the home. Initiatives include supporting social programmes and services for women subjected to violence, such as counselling, non-profit housing and emergency shelters, and implementing criminal justice reform measures, so that police and other front-line workers can better protect and assist victims.

113. In the private sector, in some cases with funding from government, centres for the recovery and reintegration of victims of torture have been established. At the federal level, assistance is provided to survivors of torture from other countries who have immigrated to Canada.

Legal aid

114. Legal aid services, that is criminal and civil legal aid, are funded through provincial and territorial governments, which determine what types of services are offered by their legal aid agencies. As part of its direct responsibilities in the area of criminal law, the federal Department of Justice provides financial assistance to the provinces and territories towards the delivery of criminal legal aid services. The Supreme Court of Canada has stated that section 10 (b) of the Canadian Charter of Rights and Freedoms requires that a detained individual be told of the availability of any legal aid plan which is in place. Regarding civil legal aid, under the Canada Health and Social Transfer, the federal Government provides financial support to the provinces and territories for the delivery of social programmes (including legal aid).

C. Rights referred to in the various international human rights instruments that are protected either in the Constitution or by a separate bill of rights and provisions in the Constitution or bill of rights for derogation

1. Constitutional protection

Canadian Charter of Rights and Freedoms

115. The Canadian Charter of Rights and Freedoms, which is Part I of the Constitution Act, 1982, guarantees the following rights and freedoms:

Fundamental freedoms of conscience and religion, of thought, belief, opinion and expression (including freedom of the press and other media), of peaceful assembly and of association (sect. 2);

Democratic rights (right to vote and to qualify for election to the federal House of Commons or provincial legislative assembly; there must be elections to the House of Commons and provincial legislatures at least every five years, and Parliament and the legislatures must sit each year) (sects. 3-5);

Mobility rights (right to enter, remain in and leave Canada (sect. 6 (1)), and to take up residence and earn a living in any province (sect. 6 (2) and (3)));

Right to life, liberty and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice (sect. 7);

Various rights relating to the legal process, including the right to be secure against unreasonable search and seizure, rights on arrest or on being charged with an offence, the right not to be subjected to cruel and unusual treatment or punishment, the right against self-incrimination and the right to an interpreter (sects. 7-14);

The right to equality before and under the law, and the right to the equal benefit and protection of the law without discrimination, and in particular without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability (the courts have interpreted this section to include other analogous grounds) (sect. 15);

Recognition of French and English as the two official languages of Canada (sects. 16-22); and

Minority-language educational rights (sect. 23).

Interpreting the Canadian Charter of Rights and Freedoms

116. As well as conferring rights and freedoms, the Canadian Charter of Rights and Freedoms contains the following interpretive provisions, which have come to play a significant role in Charter decisions:

> The guarantee of Charter rights and freedoms should not be construed so as to abrogate or derogate from any Aboriginal treaty or other rights or freedoms pertaining to the Aboriginal peoples of Canada (sect. 25);
>
> The guarantee in the Charter of certain rights and freedoms shall not be construed as denying the existence of other rights and freedoms existing in Canada (sect. 26);
>
> The Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians (sect. 27);
>
> Charter rights and freedoms are guaranteed equally to male and female persons (sect. 28); and
>
> The Charter does not abrogate or derogate from constitutional rights or privileges pertaining to denominational, separate or dissentient schools (sect. 29).

117. Furthermore, the Supreme Court of Canada has, in its reasons for judgement in cases involving the Canadian Charter of Rights and Freedoms, developed rules of interpretation that have shaped the development of Charter jurisprudence. According to the purposive approach, the courts consider the purpose of guaranteeing a right or freedom in determining its ambit. According to the contextual approach, they consider the particular context in which a Charter question arises in deciding whether and how the Charter applies in those circumstances. The Supreme Court of Canada has also emphasized the importance of taking international human rights standards into account in interpreting and applying the Charter, particularly those contained in treaties that Canada has ratified.

Scope of application of the Canadian Charter of Rights and Freedoms

118. Some rights guaranteed in the Canadian Charter of Rights and Freedoms (electoral rights in sect. 3, mobility rights in sect. 6 (1) and minority-language educational rights in sect. 23) are guaranteed only to Canadian citizens (to citizens and permanent residents, in regard to the mobility rights in sect. 6 (2) and (3)). For the most part, however, rights are guaranteed to "everyone", "every individual" or "anyone", so that they pertain to all persons within Canada, including aliens.

119. According to section 32 of the Canadian Charter of Rights and Freedoms, it applies to federal, provincial and territorial legislatures and governments. Thus, the Charter protects individuals from violations of their human rights and fundamental freedoms by government. Under section 32, the Charter has been interpreted to apply to the full range of governmental activities, including administrative practices of officials and the acts of

the executive branch of government, as well as to enactments of Parliament or the legislatures. The Charter also applies to the exercise of delegated legislative authority (for example, by municipalities) and to non-governmental actors where, in view of factors such as the degree of governmental control, they may be regarded as engaged in government action.

Limitations on and derogations from rights

120. Section 1 of the Canadian Charter of Rights and Freedoms defines the circumstances in which Charter rights and freedoms may be limited. It states that they are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. The Supreme Court of Canada has indicated that, for a limit to meet the requirements of section 1, it must serve an objective of sufficient importance and employ proportionate means to attain it. In particular, the means must be rationally connected with the objective, impair the Charter right or freedom as little as possible, and have an impact that is proportional to the objective in question. The Supreme Court of Canada has also stated that the onus is on the government defending a limit on Charter rights to establish that section 1 is complied with.

121. Some provisions of the Canadian Charter of Rights and Freedoms also contain their own express or implied limitations. For example, section 8 protects every one from "unreasonable" search and seizure, and the guarantee of freedom of expression in section 2 (b) has been interpreted not to extend to violent expression. Only principles of fundamental justice could restrain the rights to life, liberty and security of the person guaranteed by section 7.

122. Section 33 of the Canadian Charter of Rights and Freedoms permits the Parliament of Canada or a provincial or territorial legislature to declare that a statute, or a provision of it, shall operate notwithstanding section 2 (fundamental freedoms), sections 7-14 (legal rights) or section 15 (equality rights) of the Charter. Such a declaration automatically ceases to have effect after five years, but it may be re-enacted. Section 33 has no application to the Charter's democratic rights, mobility rights, official-language rights and minority-language educational rights.

123. The federal Emergencies Act, which enables the Governor-in-Council to adopt extraordinary measures in emergency situations, does not authorize derogations from rights set forth in the Canadian Charter of Rights and Freedoms. The Preamble to the Act states that, in adopting such measures, the Governor-in-Council is subject to the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights, and must have regard to the International Covenant on Civil and Political Rights, "particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency". Furthermore, section 4 (b) of the Act provides that it confers no authority to make orders or regulations for the detention, imprisonment or internment of Canadian citizens or permanent residents on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

Rights of the Aboriginal peoples of Canada

124. The Aboriginal peoples of Canada (that is, the Indian, Inuit and Métis people of Canada) have the same rights as other Canadians. As well, section 35 of Part III of the Constitution Act, 1982, entitled Rights of the Aboriginal Peoples of Canada, recognizes and affirms the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada. "Treaty rights" are defined in section 35 to include rights that now exist by way of land claims agreements or may be so acquired. Aboriginal and treaty rights are guaranteed equally to male and female persons.

125. The Government of Canada has stated that it will act on the premise that the inherent right of self-government of the Aboriginal peoples of Canada is an existing Aboriginal right within section 35, and that it will implement this right by means of negotiated agreements among all the parties concerned. These negotiated arrangements will differ depending on the diverse circumstances of Aboriginal peoples in the various parts of Canada.

126. No provision is made in the Constitution Act, 1982, for derogations from existing Aboriginal and treaty rights. The Supreme Court of Canada, in interpreting section 35, has indicated that these rights may be limited where the limitation is justified.

Equalization and regional disparities

127. Section 36 of Part III of the Constitution Act, 1982, entitled Equalization and Regional Disparities, commits federal and provincial governments to promoting equal opportunities for the well-being of Canadians, furthering economic development to reduce disparity in opportunities and providing essential public services of reasonable quality to all Canadians. Furthermore, it commits the federal Government to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation. These provisions are particularly relevant in regard to Canada's international obligations for the protection of economic, social and cultural rights.

2. Protection in bills of rights and human rights codes

Bills of rights

128. In 1960, before the enactment in 1982 of the Canadian Charter of Rights and Freedoms as part of the Constitution of Canada, the Canadian Bill of Rights was enacted at the federal level. It applies to legislation and policies within federal jurisdiction, and guarantees rights and freedoms similar to those found in the Canadian Charter of Rights and Freedoms and the International Covenant on Civil and Political Rights. Federal laws that infringe the Canadian Bill of Rights are to that extent inoperative, unless the law in question states that it operates notwithstanding the Canadian Bill of Rights. There are very few cases of laws having been declared inoperative because of inconsistency with the Canadian Bill of Rights, unlike the many successful actions brought on the basis of the Canadian Charter of Rights and Freedoms.

129. There is also an Alberta Bill of Rights, enacted in 1972 to ensure that the rights and freedoms protected at the federal level in the Canadian Bill of Rights received similar protection in matters within Alberta jurisdiction. The Alberta Bill of Rights guarantees due process rights, equality rights and the fundamental freedoms (religion, speech, assembly and association, and freedom of the press). In 1975, Québec adopted a Charter of Human Rights and Freedoms to protect fundamental rights and freedoms within its jurisdiction.

Human rights codes and legislation

130. Many of the international human rights instruments that Canada has ratified are directed against discrimination, or, where they are more general in nature, require that the rights guaranteed in them be respected without discrimination. An important means of implementing this feature of international obligations is through human rights legislation (or human rights codes). All governments in Canada - federal, provincial and territorial - have adopted legislation prohibiting discrimination on various grounds in regard to employment matters, the provision of goods, services and facilities customarily available to the public, and accommodation. This legislation differs in its application from section 15 on equality rights of the Canadian Charter of Rights and Freedoms in that it provides protection against discrimination by individuals in the private sector, as well as by governments.

131. Generally, human rights codes prohibit discrimination on the following grounds: race or colour; religion or creed; age; sex; sexual orientation; family or marital status; physical or mental handicap or disability; national or ethnic origin and ancestry or place of origin. Some codes include the following prohibited grounds of discrimination: political belief; association; pardoned conviction; record of criminal conviction; source of income; place of residence; garniture of wages; social condition or origin and language.

132. The Supreme Court of Canada has stated that anti-discrimination legislation is to be interpreted by Canadian courts and tribunals in a manner that will advance its broad purpose of ensuring equality of opportunity for individuals. On the basis of this interpretive approach, the Supreme Court has reached a number of progressive conclusions about the ambit of human rights codes.

133. Thus, the Supreme Court has indicated that human rights codes take precedence over other legislation. In other words, discriminatory practices may be subject to challenge under such codes, even if they are apparently authorized by other legislation. Furthermore, the Supreme Court has held that human rights legislation precludes adverse-effect discrimination, as well as direct discrimination. Thus, if policies or practices have an adverse impact on groups protected by human rights codes, they may be discriminatory, even if they do not involve intentional discrimination or expressly draw distinctions on the basis of prohibited grounds. In regard to adverse-effect discrimination, employers have a duty to make reasonable accommodation to the needs of those protected by the law. The duty of reasonable accommodation requires that employers make a genuine effort, except where it would cause undue hardship, to accommodate the special needs of members of protected

groups, and this may involve minor inconvenience to other employees. Some human rights codes expressly require reasonable accommodation regarding direct, as well as indirect, discrimination.

134. Human rights codes permit distinctions on the basis of prohibited grounds of discrimination in the employment area if they are based on bona fide and reasonable occupational qualifications or requirements, and in the provision of services, facilities and accommodation if the distinctions have a bona fide and reasonable justification. The Supreme Court of Canada has defined the bona fide occupational requirement as one imposed in good faith, and related in an objective sense to the performance of the work involved.

135. Some provincial human rights codes and legislation contain guarantees of various rights established by international human rights instruments, in addition to prohibiting discrimination. The Saskatchewan Human Rights Code guarantees the freedoms of conscience, expression and association, freedom from arbitrary imprisonment and the right to take part in elections. The Human Rights Act of the Yukon Territories guarantees the freedoms of religion and conscience, expression, assembly and association, and the right to enjoyment and disposition of property, in accordance with the law. In Québec, the Charter of Human Rights and Freedoms guarantees fundamental freedoms and rights such as freedom of religion, the right to life and the right to respect of privacy. The Québec Charter recognizes also the right to equality in the recognition and application of political, judicial, economic and social rights and freedoms. Section 9 (1) of the Québec Charter states that, in exercising fundamental rights and freedoms, a person shall maintain a proper regard for democratic values, public order and the general well-being of the citizens of Québec, and that in this respect, the scope of the rights and freedoms, and limits on their exercise, may be set by law.

D. How international human rights instruments are made part of the national legal system

136. The Government of Canada - that is the federal Government - has authority to ratify international conventions on behalf of Canada. It is the practice for the Government of Canada to consult with provinces and territories before ratifying human rights conventions or other treaties involving matters within their jurisdiction and seek to their support. International human rights conventions that Canada has ratified apply throughout Canada in all jurisdictions.

137. International conventions that Canada has ratified do not automatically become part of the law of Canada. Rather, treaties that affect the rights and obligations of individuals are implemented by domestic law. To some extent, human rights treaties are implemented by constitutional law, including the Canadian Charter of Rights and Freedoms, which applies to all governments in Canada. To a considerable extent, they are implemented by legislative and administrative measures.

138. Some human rights matters fall under federal jurisdiction, others under provincial and territorial jurisdiction. Therefore, human rights treaties are implemented by legislative and administrative measures adopted by all

jurisdictions in Canada It is not the practice in any jurisdiction in Canada for one single piece of legislation to be enacted incorporating a particular international human rights convention into domestic law (except, in some cases, regarding treaties dealing with specific human right issues, such as the 1949 Geneva Conventions for the protection of war victims). Rather, many laws and policies, adopted by federal, provincial and territorial governments, assist in the implementation of Canada's international human rights obligations.

139. All jurisdictions review their legislation for consistency with the human rights convention in question before ratification. To ensure compliance, existing legislation may before amended or new laws enacted. After ratification, Canada's international human rights obligations are taken into account in drafting new legislation.

140. In a federal State such as Canada, there may sometimes be differences in the manner of implementing rights in the various jurisdictions. These differences may reflect differences in local conditions. The following features of the Canadian legal system help to ensure that there are no significant discrepancies between jurisdictions in human rights protection:

(a) Measures adopted by all governments in Canada are subject to review under the Canadian Charter of Rights and Freedoms. This ensures uniformity of protection across Canada regarding the civil and political rights guaranteed by the Charter, and further that economic and social measures in all jurisdictions, and those relating to children or other subject matters covered by human rights conventions, satisfy the same criteria set forth in the Charter regarding such matters as non-discrimination and due process;

(b) The Supreme Court of Canada interprets and applies legislation enacted throughout Canada, thus contributing to consistency of approach. For example, the basic doctrines that the Supreme Court has developed regarding the ambit of human rights legislation - paramountcy, adverse-effect discrimination and reasonable accommodation - apply to human rights codes in all jurisdictions;

(c) Federal funding of provincial-territorial programmes may be conditional on certain national standards being met. For example, under the Canada Health and Social Transfer, eligibility for full federal contributions is conditional upon the provinces and territories maintaining the national criteria and conditions in the Canada Health Act, including those respecting public administration, comprehensiveness, universality, portability and accessibility;

(d) Federal funding of provincial-territorial programmes is particularly helpful to the less prosperous provinces and territories and assists in preventing regional disparities in the implementation of rights;

(e) Mechanisms exist to ensure that the various jurisdictions are aware of the approaches taken throughout Canada on human rights issues, and to promote coordination in this regard (see below).

141. The federal nature of Canada makes a positive contribution to the protection of human rights in Canada because of the variety of perspectives brought to bear on human rights issues and the ability of governments to take into account the particular conditions within their jurisdiction in determining appropriate modes of implementation. Furthermore, the interplay between the various forms of human rights protection - constitutional, statutory and administrative - has enhanced such protection in Canada. For example, the courts have tended to interpret section 15 (equality rights) of the Canadian Charter of Rights and Freedoms in the same progressive manner that they have adopted for human rights codes, and the grounds of discrimination covered by these codes have been extended by means of court challenges based on section 15 of the Charter.

142. In the manner outlined above, Canada fulfils its obligation (to use the language of article 2 (2) of the International Covenant on Civil and Political Rights) "to take the necessary steps, in accordance with its constitutional processes ... to adopt such legislative or other measures as may be necessary to give effect to the rights" recognized in a particular human rights covenant or convention.

E. Whether the provisions of the various international human rights instruments can be invoked before, or directly enforced by the courts, other tribunals or administrative authorities or must be transformed into internal laws or administrative regulations to be enforced by the authorities concerned

143. As discussed above, international human rights treaties are not automatically part of the law of Canada and, therefore, may not be directly enforced in Canadian courts. Rather, it is necessary to rely on the various domestic remedies available for breaches of relevant domestic law.

144. International human rights treaties that Canada has ratified are relevant to the interpretation of domestic law. This doctrine is of particular relevance in the context of the Canadian Charter of Rights and Freedoms, in two ways. First, human rights treaties are relevant in determining the ambit of rights protected by the Charter. Thus, the Supreme Court has stated that the Charter should generally be presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents that Canada has ratified. For example, in determining the ambit of the right to retain counsel in section 10 of the Charter, the Supreme Court has referred to article 14 (3) (d) of the International Covenant on Civil and Political Rights. Moreover, in the event of ambiguities in domestic legislation, Canadian courts have held that Parliament must have intended the relevant provisions to be consistent with Canada's international legal obligations.

145. Second, international human rights instruments are relevant in determining whether the requirements of section 1 (reasonable limits) of the Canadian Charter of Rights and Freedoms have been satisfied. As indicated above, one requirement under section 1 is that the challenged legislation serve an objective of sufficient importance. The Supreme Court of Canada has stated that, if the legislative objective corresponds to a right recognized in an international human rights instrument - for example, to the right to work

guaranteed by the International Covenant on Economic, Social and Cultural Rights, or to the right to be protected against hate propaganda guaranteed by the International Covenant on Civil and Political Rights - then it will be an objective of sufficient importance for purposes of justifying a limit on a Charter right or freedom within the terms of section 1.

146. In addition, the courts have on occasion stated that where the objective of challenged legislation corresponds to one of the objectives set out in the limitation clauses of articles of international human rights covenants - for example, the objective of public health set out in several articles of the International Covenant on Civil and Political Rights - then this indicates it is an objective of sufficient importance for section 1 purposes.

147. In this manner, through their relevance to the interpretation of the Canadian Charter of Rights and Freedoms, international human rights treaties have a role to play in determining whether legislation is valid or invalid under the Constitution of Canada.

148. Canadian courts are also increasingly referring to relevant provisions of international human rights conventions in cases not involving the Canadian Charter of Rights and Freedoms, particularly in immigration and family law areas.

F. Institutions or national machinery responsible for overseeing the implementation of human rights

Federal-provincial-territorial forums

149. In 1975, the first Federal-Provincial Ministerial Conference on Human Rights was held to establish a process for the ratification and implementation of international human rights conventions. Subsequently, in 1976, Canada acceded to the two Covenants. Since then, ministerial conferences have been held on a periodic basis.

150. At the 1975 Ministerial Conference, it was agreed that there should be a Federal-Provincial-Territorial Continuing Committee of Officials on Human Rights. The mandate of the Continuing Committee is to maintain consultation and collaboration among governments with respect to the domestic implementation of human rights instruments. It also serves as a consultation mechanism among governments in Canada on other domestic or international human rights questions related to international human rights instruments.

151. Specific functions of the Continuing Committee include serving as a consultation mechanism on the ratification of international human rights conventions; encouraging information exchange among governments in Canada with respect to the interpretation and implementation of international human rights instruments and related matters; facilitating the preparation of reports on conventions that have been ratified, as well as other reports on human rights requested by the United Nations or other organizations; encouraging information exchanges and research on human rights matters of common interest to all jurisdictions; providing views with respect to the development of Canada's positions on international human rights issues; and organizing and providing follow-up to ministerial conferences on human rights.

152. There are also many other federal-provincial-territorial committees with a mandate relating to human rights matters. As an example, the Canadian Association of Statutory Human Rights Agencies brings together human rights commissions and facilitates consultation and collaboration among them. Also, ministers responsible for the status of women meet each year to discuss matters of common interest to them, and the Federal-Provincial-Territorial Senior Status of Women Officials Forum usually meets three times a year. There is a Family Law Committee of federal-provincial-territorial officials that meets regularly to develop and coordinate family-law policy of national interest and advise deputy ministers.

Other mechanisms

153. Within each government, there are mechanisms in place to coordinate matters related to human rights. For example, at the federal level, there is an Interdepartmental Committee on the Convention on the Rights of the Child, which guides the preparation of reports on the Convention and follow-up to the concluding observations of the Committee on the Rights of the Child on Canada's reports.

154. At the federal parliamentary level, there is a Standing Committee of the House of Commons on Human Rights and the Status of Disabled Persons, which considers issues in these areas. The Standing Committee on Foreign Affairs and International Trade and the Subcommittee on Sustainable Human Development also consider international human rights issues. These committees may call witnesses, including officials and non-governmental organizations, and ministers sometimes appear before them. They submit reports to the House of Commons.

155. Human rights commissions have a role to play in identifying human rights issues and concerns in Canada. Many of them have been given various degrees of responsibility for overseeing implementation of the human rights covered in their respective human rights legislation. For example:

> The Canadian Human Rights Commission may receive and consider recommendations regarding human rights and freedoms and, where appropriate, include them in its annual report;
>
> In Newfoundland and Nova Scotia, the provincial human rights commission has as one of its functions to advise and help government departments and agencies, and to coordinate their activities where they concern human rights;
>
> The Ontario Human Rights Commission may examine and review any statute, regulation, programme or policy and make a recommendation regarding any measure that, in its opinion, is inconsistent with the intent of the Human Rights Act;
>
> The Québec Human Rights and Youth Commission may make an analysis of any Québec statute that may be inconsistent with the Québec Charter of Human Rights and Freedoms and make appropriate recommendations to the government; it may also receive suggestions, recommendations and requests regarding human rights and freedoms, study them, and make the appropriate recommendation to the government;

In British Columbia, the Chief Commissioner may submit a special report to the minister concerning any matter respecting human rights in British Columbia that the Chief Commissioner considers to be of such urgency or importance that it cannot be deferred until the next annual report.

Non-governmental organizations and Aboriginal organizations

156. Canadian non-governmental organizations play an important role in the protection and promotion of human rights in Canada. They monitor governmental activities, help individuals obtain redress in cases of violations of human rights and carry out educational programmes. Non-governmental organizations operate freely in Canada and sometimes receive governmental financial support. The Government of Canada holds annual consultations with non-governmental organizations, and national and other Aboriginal organizations, before the sessions of the United Nations Commission on Human Rights. The Government of Canada consults with non-governmental organizations in the course of ratifying international human rights conventions and preparing reports on Canada's compliance with them.

IV. INFORMATION AND PUBLICITY

A. Special efforts to promote awareness of the rights contained in the various human rights instruments

157. All governments in Canada carry out public education programmes in the area of human rights. Within the federal Government, the main agencies involved are the Departments of Canadian Heritage and Justice, and the Canadian Human Rights Commission.

158. The Department of Canadian Heritage is mandated under the law to promote a greater understanding of human rights, fundamental freedoms and related values. To discharge this mandate, it provides grants and technical advice to human rights organizations and other community groups; it publishes human rights material for free distribution, including the Canadian Charter of Rights and Freedoms, Canada's reports under various international instruments, and United Nations documents such as the Covenants and other major human rights conventions and fact sheets published by the Office of the United Nations High Commissioner for Human Rights.

159. The Department of Justice supports projects of non-governmental organizations and individuals that focus on human rights and the law. The Department provides grants and contributions for projects that promote a greater understanding of human rights issues, laws and institutions, both domestically and internationally, in the justice system and the community at large.

160. The Canadian Human Rights Commission is mandated under the law to develop and conduct information programmes to foster public understanding of the Canadian Human Rights Act and of the role and activities of the Commission, and to foster public recognition of the principle of equal opportunity set forth in section 2 of the Act.

161. All provincial and territorial human rights commissions have similar responsibilities under their respective legislation. Often, the legislation explicitly refers to the Universal Declaration of Human Rights and other United Nations instruments.

162. Non-governmental organizations are also involved in promoting awareness of human rights and international instruments.

163. Promotional campaigns usually culminate on such occasions as Human Rights Day, the International Day for the Elimination of Racial Discrimination, Women's Day and National Child Day, or at the commemoration of United Nations decade activities. Government agencies, human rights commissions, non-governmental organizations and the media usually join forces on these occasions.

B. Process for the preparation of reports

164. Canada's reports to the United Nations under multilateral treaties are prepared by the federal Government in collaboration with the provincial and territorial governments. Under the federal-provincial agreement of 1975, the provincial and territorial governments have the right to prepare reports on their own activities, and they usually exercise this right. Their reports become part of the report submitted by Canada.

165. The federal Department of Canadian Heritage assumes the general responsibility for the preparation of the reports, including the consultations with the provincial and territorial governments. It is assisted in this task by many other departments and agencies, in particular the Department of Justice, Status of Women Canada, the Department of Human Resources Development and Statistics Canada. The Canadian Human Rights Commission is invited to provide input for all reports and to comment on the drafts.

166. The Department of Foreign Affairs and International Trade is responsible for presenting the reports to the United Nations, and it leads the delegations that attend the meetings at which the reports are reviewed. Those delegations include representatives from the departments with the main responsibility for the subject matters covered, as well as representatives from provincial and/or territorial governments.

167. The process of preparing reports always generates wide consultation within each government. It is a dynamic process, which is believed to stimulate self-criticism of performance and to generate initiatives for change.

168. Consultations with sources outside governments are held where necessary. In recent years, the federal government has consulted non-governmental organizations in the preparation of its own section of most major reports. Comments from outside sources are taken into consideration in the preparation of the reports. The reports are made widely available free of charge to the public, including libraries, educational institutions and non-governmental organizations, associations and individuals. The matters that are discussed in the reports are the subject of constant public debate.

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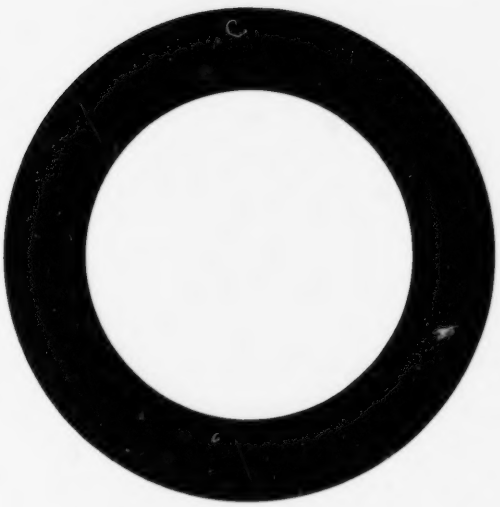

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South Africa

[4 December 1997]

The past

1. The nature and character of the South African struggle for freedom was unique in its international support. In its last years it became part of world consciousness as the international community joined the liberation movement in calling for the release of Nelson Mandela and other political prisoners. News from South Africa was carried across the world by television network, by radio wave, by satellite and in print.

2. But, to this day, one of the most terrible and one of the most moving images of the apartheid years was that of the body of 13-year-old Hector Petersen, shot dead in Soweto on 16 June 1976, and carried in the arms of his friends. With them, as they run forward, is his sister in school uniform, her face full of rage and pain.

3. The history of South Africa began, of course, long before the Soweto uprising. Long, even, before the legalized oppression of apartheid began.

4. The people who originally lived in the land were hunter-gatherers known as the San and pastoralists known as the Khoi. They were joined about 1,700 years ago by farmers from east and central Africa who settled in the east of the country. Later came the Dutch colonists, followed by the British, the Anglo-Boer War and the struggle for the land. This is a better known period of early South African history and, indeed, was the only history served up to many decades of schoolchildren, told from one point of view.

5. But, through those years, another story unfolded. A story of slaves, many of them children, brought to the Cape Colony to serve the needs of the colonists. A story of generations of children born into slavery, for manumission was rare. A story of men and women forced off the land.

Of indentured labour from India and China. Of long hours of sweat and labour on the farms, on the docks and railways, on the mines and in white homes everywhere. It is a shameful story. One that has left its patterns and scars on the many people who inherited the badge of servitude and discrimination.

6. Finally, in 1948, apartheid became entrenched, a way of life protected by laws, enforced by practice and, as resistance grew, stamped into the lives of every South African. Hundreds of thousands of people were forcibly removed from their homes and millions from their land. All African adults were forced to carry passes which controlled their lives from dawn to dusk. Swift and often violent action followed every act of defiance.

7. Formal negotiations began in 1990 when Nelson Mandela and other political leaders were released and the African National Congress, the Pan-Africanist Congress of Azania and the South African Communist Party banned for decades, were unbanned. Exiled leaders returned and the talks began. It was nearly four years later that the negotiations at Kempton Park finally yielded an interim Constitution which satisfied most of the parties to the conflict.

8. In April 1994 South Africa held its first democratic elections, later that year Nelson Mandela was inaugurated as President and, in 1996, after another two years of debate and negotiations, the final South African Constitution was adopted.

The legacy

9. Over the years, the majority of South Africans experienced disadvantage, loss of dignity, repression and, often, terrible suffering. All South Africans, even those who clung to their privilege, experienced the disadvantage of growing up in a country in which authority took precedence over freedom.

10. It has left us with an education system, a social welfare system, a health system, a justice system, and a socio-economic system geared to meet the needs of only a small minority of the population. It has left us with a human condition that cries out for redress ... and with a generation of deeply disadvantaged and often traumatized children who need our special attention and care.

11. Inequity and deep deprivation is but one side of the story. Throughout South Africa's violent colonial past, children and youth have been victims of gross human rights violations.

The structure of Government

12. South Africa is a constitutional democracy. The Interim Constitution was a product of the negotiations process that began in 1990. After the elections, the Constitutional Assembly (consisting of both houses of Parliament) negotiated and drafted the new Constitution, which became an Act of Parliament in 1996. The Constitutional Court was created as the guardian of the Constitution.

13. The Constitution provides for a separation of powers. The Executive, which consists of the President, Deputy President, Cabinet and the State departments, is in charge of policy and administration. Parliament, the legislative body, consists of two houses: the National Assembly and the National Council of Provinces. The National Assembly consists of 400 members, elected by proportional representation in a national election. The National Council of Provinces, a new structure designed to create a joint forum for South Africa's nine provinces, consists of equal representation from the provincial legislatures. Both houses are responsible for the passing of legislation.

14. The Constitution provides national, provincial and local spheres of government. The national government is mainly responsible for policy, while the provincial and local spheres are mainly responsible for implementation. The principle here is of cooperative government.

15. Each of the nine provinces has an elected legislature, and there are almost 850 local government structures in South Africa.

16. In addition, the Constitution requires the setting up of various independent bodies to promote democracy and human rights. These include the Human Rights Commission, the Commission on Gender Equality, the Office of the Public Protector, the Judicial Service Commission, the Truth and Reconciliation Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

The geography

17. South Africa is situated on the southern tip of Africa. It is bounded by the Atlantic Ocean to the west and the Indian Ocean to the east. Its borders meet Namibia, Botswana, Zimbabwe, Swaziland and Mozambique. Lesotho is a landlocked country within the boundaries of South Africa. The total area of the country is approximately 1,219,080 square kilometres.

18. The interim Constitution created nine provinces*. This structural arrangement provided the basis for the first democratic elections in 1994 (see above). The provinces are the Eastern Cape, the Free State, Gauteng, KwaZulu-Natal, Mpumalanga, Northern Cape, Northern Province, the North-West Province and the Western Cape.

19. The geography and climate of South Africa vary quite widely. About 65 per cent of South Africa receives less than 500 mm rain per annum - the minimum required for agriculture. The inland areas are also subject to regular periods of drought. Small parts of the country have an average annual rainfall of over 1,400 mm. The terrain includes savannah with mixed grasslands and trees, the dry Karoo and lush fynbos areas.

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* These replaced the four provinces, four nominally "independent" States or homelands and five "self-governing" territories which provided the geographical arrangement for the apartheid system.

The people

20. The first full South African census was conducted in 1996. The first preliminary estimates are of a population of 37,859,000. The population breakdown, based on the 1991 census, is approximately 76.3 per cent African, 8.5 per cent Coloured, 2.5 per cent Indian and 12.7 White. Of these, approximately 55.4 per cent of the population live in urban areas. The population discrepancies between provinces are worthy of note because of the vast income and living standard disparities between people living in urban and rural areas. In the Northern Province, 88.1 per cent of the population live in rural areas. In Gauteng 96.4 per cent live in urban areas.

21. Some of the poorest households in South Africa are headed by women. Some are headed by grandmothers or children who, by various means, attempt to support younger children. Poverty results in many households containing three or four generations. In rural areas, men are often away for long stretches.

22. Patterns of immigration are complex in South Africa. Destabilization by the apartheid government in countries to the north of South Africa (particularly in Mozambique) resulted in a large refugee population. Migrant workers, recruited for the mines and seeking work of other kinds, have flowed across the border over the years. This phenomenon continues. Recently, refugees and illegal immigrants began arriving from war-torn areas further north. In addition, the relative openness of the South African northern border, together with the difficulty in policing so long a perimeter, has exacerbated a serious increase in crime and the import of illegal substances.

The economy

23. South Africa has the largest economy in southern Africa. In 1994 South Africa accounted for 44 per cent of the combined gross national product of all countries in the sub-Saharan African region.

24. In 1996 South Africa's gross domestic product (GDP) grew by 3.1 per cent, and real income per person is some 4.5 per cent above the 1993 level.

25. In 1995 the primary sector accounted for 14 per cent of South Africa's GDP, the secondary sector for 33 per cent, and the tertiary sector for 54 per cent. Mining and quarrying are major industries within the primary sector, together accounting for 9 per cent of GDP. Manufacturing is the major component of the secondary sector, being 25 per cent of GDP.

26. In 1996, South Africa launched a long-term economic strategy known as GEAR: Growth, Employment and Redistribution. GEAR emphasizes fiscal and monetary discipline, higher international competitiveness, private sector investment and job creation. The GEAR strategy projects a medium-term real growth rate of 6 per cent, and anticipates a 4.5 per cent per annum average growth thereafter.

Income distribution

27. South Africa is characterized by extremes of wealth and poverty. Although it is classified as a middle-income developing country, the vast majority of the people are extremely poor. The Gini coefficient (0.68) is one of the two highest in the world. Ninety-five per cent of the poor are African and 75 per cent of the poor live in the rural areas.

Unemployment

28. One of the most serious problems confronting South Africa is the chronic level of unemployment, particularly among the previously disadvantaged population groups.

29. In October 1995 14.4 million of the 26.4 million South Africans aged 15 or older were economically active, and of these, 4.2 million (or 30 per cent) were unemployed.

30. Unemployment figures illustrate the legacy of apartheid with Africans the most badly affected. Among all population groups, the female unemployment rate is markedly higher than that for men, as shown in the following table.

Table 1. Unemployment rates - 1995 (%)

Gender	African	Coloured	Indian	White
Women	50.2	27.8	24.2	9.2
Men	33.6	19.7	13.3	4.5
Total	41.1	23.3	17.1	6.4

31. A significant proportion of those who are employed work in the informal sector.

Literacy rate

32. Virtually all adult white people are literate, while a quarter of adult Africans are illiterate.

Table 2. Literacy rate - 1991 (%)

	African	Coloured	Indian	White	Total
Literacy	77	91	95	100	82

Religion

33. The majority of South Africans (some 80 per cent) follow the Christian faith. Other faiths include traditional African religion, Hindu, Islam and Judaism.

Home language

34. The new Constitution provides status for 11 official languages. Previously only 2 (English and Afrikaans) were recognized and are still, by and large, used for official communication, although these patterns are changing. The weighting is now towards English with attempts to provide for other languages. The public broadcaster, for example, endeavours to incorporate many languages into its communications. A rapid growth in community radio stations has facilitated the better use and spread of other languages.

35. The distribution of home language according to the 1991 census is as follows:

Table 3. Home language - 1991

Language	% of population
Afrikaans	15
English	9
IsiNdebele	2
SePedi	10
SeSotho	7
SiSwati	3
XiTsonga	4
SeTswana	7
TshiVenda	2
siXhosa	18
IsiZulu	22
Other	2

Life expectancy

36. There are significant differences between population groups. Women have a longer life expectancy than men.

Table 4. Life expectancy - 1995 (years)

Race	Women	Men	All
African	68.2	63.5	65.6
Coloured	68.5	62.6	65.5
Indian	73.0	73.2	70.1
White	76.6	69.9	73.2

37. It must be noted that large numbers of women suffer from HIV/AIDS and that the number of children born HIV positive is on the increase.

Birth rate and infant mortality

38. Birth rates per 1,000 of the population are as follows (October Household Survey 1994).

Table 5. Birth rate - 1991 (per 1,000 of population)

African	Coloured	Indian	White
25.3	21.7	18.1	13.7

39. Infant mortality rates show a similar disparity between population groups, reflecting the uneven provision of medical services, lack of adequate nutrition, and poor quality of living in some communities.

Table 6. Infant mortality - 1991 (per 1,000 live births)

African	Coloured	Indian	White
54.7	36.2	9.9	7.3

Maternal mortality

40. Maternal mortality shows the same trends, but there are no reliable estimates due to poor reporting. Official figures range from 2 per 100,000 live births for Indians to 58 for Africans. However, indirect demographic techniques put the estimate at around 250 in 1991 for Africans.

Population by age group

41. South Africa has a young population: 15 per cent of the total population is aged 5 years or younger; another 21 per cent is aged from 6 to 14.

42. Among adults there is a locational gender bias in that in the peak income-earning years, the number of men in urban areas exceeds that of women, while women predominate in the non-urban areas.

Table 7. Population by gender, age and location - 1991

	0-19	20-39	40-59	60-
Urban women	3 579 000	3 459 000	1 823 000	787 000
Urban men	3 697 000	3 806 000	1 958 000	627 000
Non-urban women	5 764 000	2 917 000	1 641 000	751 000
Non-urban men	5 789 000	2 349 000	1 064 000	487 000
% of population	46.7	31.1	16.1	6.6

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Iran (Islamic Republic of)

[9 December 1997]

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I. HISTORY, LAND, PEOPLE, GOVERNMENT AND ADMINISTRATIVE DIVISIONS

A. History, land, climate and administrative divisions

1. The first migration of Indo-European tribes or Aryans occurred about halfway through the second millennium BC. These tribes came from western and southern regions of the Siberian plateau and gradually scattered in various areas, particularly in Khorassan, Hamedan, Kurdistan, Azerbaijan and Fars. The Aryans, in Iran, consisted of three important tribal groupings: the Parths, who settled in Khorassan; the Medes, who chose the west; and the Persians, who established themselves in Fars. The kings of these major Aryan tribes ruled the country during different periods of Iranian history. The name "Iran" comes from the ancient word "Aryania" meaning the land of Aryans.

2. The first millennium of Iranian history witnessed the rise and fall of many dynasties. In 600 BC, Cyrus, the Achaemenid king, defeated the rival Medes and united the peoples of Iran. During Cyrus' reign the Persian army dominated a vast region of what is now the Middle East, Central Asia and Pakistan. During this period Persepolis was constructed and Pasargard in Fars became the capital. Cyrus died in 529 BC and was buried in Pasargard. Darius later became Achaemenid king and expanded the military conquests of Cyrus. The Persian Empire, which had lasted for 200 years, finally collapsed with the invasion of Alexander in the fourth century BC. The Parthians, who were of Iranian origin, ended the rule of Alexander's successors in the second century BC. They considered themselves heirs to the Achaemenid Empire and chose Zoroastrianism as the official religion. The Parthian kingdom was overthrown after 350 years by Sasanian. The Sasanid kings ruled for about 400 years until the Arab invasion of Iran.

3. The prophet Muhammad, prophet of Islam, received his divine prophetic mission in the Arabian Peninsula during the latter part of the Sasanid era. Around the seventh century AD early Muslims and disciples of the Prophet introduced Islam to Zoroastrians in Iran and invited them to join the new religion. The defeat of Sasanian brought the expansion of Islam in Iran and Muslim Arabs ruled Iran for about two centuries. With the end of Arab domination in Iran the country became the target of invaders from outside which continued for 500 years. The cities of Iran were plundered by the ruling Seljuqs, the Mongols and Tatars. After the collapse of Mongol rule, Shah Ismail Safavi took the reign of power and founded the Safavid dynasty. He succeeded in establishing a strong central authority. Under Shah Abbas I Iran prospered, trade flourished and new roads were built.

4. During Nader Shah's reign (1736-1744) Iran became a powerful military force. The military exploits of Nader Shah extended the domination of the Iranian army as far as India. After the dissolution of the Afsharid dynasty, Karim Khan Zand founded the Zand dynasty (1750-1779). After the death of Karim Khan in 1779 the Qajars took the reigns of power and ruled Iran until the end of the First World War. After the war, Reza Khan came to power and established the Pahlavi dynasty that continued till February 1979. During the Pahlavi era in Iran, tyranny, corruption, dictatorial rule and foreign interferences caused widespread public discontent which led to the revolution.

5. Finally, on 11 February, the Pahlavi regime together with the order of monarchy fell, thus opening a new chapter in Iranian history with the arrival of the period of the Islamic Revolution. The founder of the new political system and the Leader of the Islamic Revolution of Iran was Imam Khomeini. After the demise of Imam Khomeini in 1989, the Assembly of Experts (comprising Islamic scholars elected by the people in accordance with the Constitution and which has the responsibility of electing the Leader) appointed Ayatollah Khamenei as the Leader. On 9 August 1989 Hojjat ul-Islam Rafsanjani was elected President of the Islamic Republic of Iran. He was re-elected President by an overwhelming majority. His term expires in July 1997.

6. Iran, covering an area of 1,648,195 square kilometres, is situated in the northern hemisphere in the south-west of Asia. Its neighbours are: Turkmenistan, Azerbaijan, Armenia and the Caspian Sea in the north, Afghanistan and Pakistan in the east, Turkey and Iraq in the west and the Sea of Oman and the Persian Gulf in the south. About 90 per cent of the Iranian land is situated within the bounds of the Iranian plateau and the country can therefore be considered as mountainous. Iran has a diverse climate. Along the southern shores of the Caspian Sea it is mild and temperate. In the western part of the country, the climate is of the Mediterranean type whereas its southern part is influenced by semi-desert conditions. The capital of Iran is Tehran and, according to the latest change of administrative divisions, Iran has 26 Ostans (provinces), 233 Shahrestan (districts) and 622 Bakhsh (townships).

B. People and population, religion, language and national groups

7. According to the 1996 census, the population of the country was 60,055,488, of which 50.24 per cent are men and 49.76 per cent women. About 61.31 per cent of the population resides in urban areas and 38.69 per cent in rural areas. The concentration of the population is 36.6 persons per square kilometre and the population growth rate is 1.47 per cent, about 99.55 per cent of the people belong to the Islamic faith, 0.17 per cent are Christians, 0.07 per cent Zoroastrians, 0.05 per cent Jews and 0.16 per cent follow other religions.

8. The very essence of Islam, like other monotheist religions, is based on the oneness of God. God is the Creator and the lord of the universe and He is all-knowing and just. God has assigned his prophets to guide people to salvation. The Shiite Imam, as the true successor of the Prophet Muhammed, has the responsibility to create a favourable atmosphere for the furtherance of moral values based on faith and righteousness and to struggle against all manifestations of corruption. It is for this reason that in this last monotheist divine religion there is no separation between the State and religion.

9. In accordance with article 4 of the Constitution of the Islamic Republic of Iran, "all civil, penal, financial, economic, administrative, military, and political laws, etc. shall be based on the Islamic standards". Article 13 recognizes the Zoroastrian, Jewish and Christian Iranians as religious minorities who are free within the jurisdiction of the law to perform their religious services and may act according to their canon law as far as their personal status and religious teachings are concerned.

10. According to article 15 of the Constitution, the official language and script of Iran is Persian. Documents, official texts and textbooks shall be in this language and script. However, according to article 19, the people of Iran belonging to whatever ethnic or tribal group shall enjoy equal rights and colour of skin, race, language and the like shall not be considered as a privilege.

C. Structure of Government

11. The Constitution describes at length the political structure and cultural, social and economic institutions of the Islamic Republic of Iran. According to Article 5 of the Constitution, during total absence of Hazrat Vali-Yi-Asr (Twelfth Shiite Imam) the authority to lead the people shall be an Islamic theologian, just, virtuous, abreast of the times, brave, an organizer and judicious, who assumes this responsibility on the basis of the provisions of article 107. The principle of separation of power in the three branches of Government is accepted in the political system of the country. These three branches are: legislative, executive and judiciary. The President is the chief of the executive power and is accountable to the Leader, parliament and people. The Leader is the highest religious and political authority of the country and supervises the relationship between the three branches of power. However, he is equal before the law to the other citizens of the country. Article 6 stipulates that State affairs shall be administered by officials chosen by the people, i.e. through elections: election of the President, representatives of the Majlis (Islamic Consultative Assembly), members of the councils and the like, or through a referendum. Parties, associations, political groups and trade unions and societies of recognized religious minorities as well as peaceful and unarmed demonstrations are free, provided they do not violate the principles of independence, liberty, national unity and Islamic standards and the foundation of the Islamic Republic.

12. The Majlis at present has 270 representatives elected for a term of four years. Zoroastrians, Jews, Christian Assyrians and Chaldeans, and Armenians each have one representative. All enactments of the Majlis shall be submitted to the Council of Guardians, composed of six jurists and six theologians. The Council examines them to see whether or not the enactments are in accordance with the tenets of Islam and the constitutional law. If the Council finds enactments contrary to Islamic tenets and the constitutional law, they shall be returned to the Majlis for reconsideration.

13. Article 156 of the Constitution stipulates that the judicial power is an independent power which shall protect individual as well as social rights and shall be responsible for administering justice and performing the following duties:

(a) Investigation of litigation, injustice and complaints and issuance of verdicts thereon; settlement of disputes and making decisions on those non-litigious matters to be determined by law;

(b) Restoration of public rights and promotion of justice and legal freedoms;

(c) Supervision over the proper administration of laws;

(d) Detection of wrongdoers, prosecution, punishment and chastisement of wrongdoers and administration of rulings as specified by the penal laws of Islam;

(e) Taking adequate measures to preclude wrongdoing and reform offenders.

D. Management of the economy

14. The economic system of the Islamic Republic of Iran is based on public, private and cooperative sectors with sound planning. The public sector includes all major industries, foreign trade, large mining enterprises, banking, insurance, supply of electrical power, dams and irrigation systems, radio, television, shipping, railway and the like which are public property and under the control of the Government. The cooperative sector includes cooperative societies for production and distribution which shall be set up in cities and rural areas according to the Islamic criteria. The private sector includes those branches of agriculture, animal husbandry, industry, trade and services which supplement economic activities of the Government and cooperative sectors.

15. The foreign trade policy has shifted its focus after the victory of the Islamic Revolution to promotion of non-oil exports. These exports have grown substantially. According to the last population census in 1996 the economically active population was 35.3 per cent of the total population. This ratio is 60.8 per cent for men and 9.1 for women. The gross national product of Iran in 1993/94 amounted to 13,400.8 billion rials.

E. Social conditions

16. Iranian society has lived in conformity with Islamic culture for the past 1,400 years in all aspects of individual and social life. Thus cultural concepts in Iranian society find their principal meaning in the context of the Islamic system. The Government and all members of the society have the primary responsibility to enhance the moral and cultural status and standard of living. The Government of the Islamic Republic of Iran is committed to implement the following policies and programmes in the Second Five-Year Economic, Social and Development Plan with a view to promoting moral values and strengthening the role of the family:

(a) Providing for the basic needs of society, investing in human resources, developing infrastructural assets and allocating the required resources;

(b) Increasing people's participation in the social, economic, cultural and political life of the nation and providing fundamental freedoms;

(c) Qualitative and quantitative cultural development, education in science and technology with special emphasis on the youth, allocation of adequate resources and expansion of social and cultural facilities;

(d) Allocation of special resources and supporting programmes for the improvement of the quality of life, in particular meeting the needs of children, women and handicapped persons;

(e) Promoting a spirit of accountability, public discipline and cooperation, and social solidarity;

(f) Promoting good individual, family and social behaviour and campaigning against undesirable patterns of behaviour;

(g) Familiarizing the youth with new science and technology along with strengthening their commitment to Islamic values.

17. The Constitution of the Islamic Republic of Iran, in its chapter 3 on the rights of people, declares that the dignity, lives, property, rights, homes and occupations of people shall be immune from encroachment. Every person has the right to choose, as he desires, an occupation that is not contrary to Islam and to the public interest and the rights of others. The Government shall provide all the people equally with means to secure employment and with due consideration for the need of society for different professions. All people shall have a right to benefit from social security in cases of retirement, unemployment, old age, disability, loss of means, accidents, need for health care and therapeutic services and medical care, in the form of insurance and the like. The Government shall provide all the people of the country with such services and financial assistance to be financed from the public revenue and the revenues derived from public participation. Furthermore, since every Iranian person and family is entitled to own a dwelling-place commensurate with their needs, the Government shall put the provisions of article 31 of the Constitution into effect with due consideration for priorities, especially in the case of the needy, villagers and workers.

F. Literacy and education

18. Article 30 of the Constitution obligates the Government to provide the opportunity for free education for all the people until the completion of a secondary course of studies, and higher education as far as the self-sufficiency of the country might allow. At present, of the total population of 60 million people, about 18.2 million are studying at the primary and secondary levels, with 1,024,000 in State and private institutes of higher learning. The share of State universities is 53 per cent of this number. Moreover, illiteracy has declined to 25 per cent and 96 per cent of children belonging to the 6-14 age group have access to school and education.

19. The Government of the Islamic Republic of Iran recognizes the rights of all Iranians to health and unimpeded and equal access to health care services. The underlying principles of health care programmes place priority on prevention over treatment services, encouragement and promotion of outpatient treatment instead of hospitalization, and recognition of the principles of primary health care as a fundamental element in economic and social development strategy. Bringing health services to deprived and rural areas, paying special attention to those most in need, such as mothers and children, even distribution of resources, and providing facilities are important

elements of the Government's health programmes. To this end, the Islamic Republic of Iran has taken substantial steps toward better survival of children by extension and development of primary health care. Through the existing health services delivery network in the country, the Government implements its programmes for vaccination, control of diarrhoeal diseases, and prenatal and postnatal care. The primary goal is to achieve full access of people to primary health care and services. At present about 85 per cent of rural and 60 per cent of urban populations have access to Government primary health care services and 50 per cent of the urban population have easy access to private curative health services.

20. The social security and welfare system has endorsed the concept of Health for All by the Year 2000 and at present 47.5 per cent of people are covered in line with this goal. The Islamic Republic of Iran has made successful efforts for the protection of children, women and handicapped persons, the most important of which is ensuring equal opportunities for full enjoyment of political, economic and social rights. Moreover, religious customs and traditions in Iranian society provide conducive ground for spontaneous cultural and charitable activities. In addition to Government organizations, many charitable institutions are also active in the non-governmental sector in the improvement of the cultural and economic status of needy children.

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CAMBODIA

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INTRODUCTION

1. Cambodia, which once upon a time enjoyed great renown and a glorious and prosperous civilization, met with disaster due to a protracted war lasting over two decades, which brought the whole country to the brink of ruin.

2. The Royal Government, which emerged from legitimate, full suffrage elections held from 23 to 28 May 1993 under the supervision of the United Nations, was left with the heavy burden of rebuilding the country for tranquility, progress and prosperity, under a system of multiparty liberal democracy.

I. LAND AND PEOPLE

3. Cambodia, with a surface area of 181,035 km^2, is situated in South-East Asia. Some two thirds of the country are covered by forests, mountain ranges and hills. The majority of the population live in the plains. According to the figures of an economic and social survey carried out by the Ministry of Planning in October 1993-1994, Cambodia has a population of 9,869,749 inhabitants, 85 per cent of whom live in rural areas and 15 per cent in urban areas. The average population density is 55 inhabitants per km^2.

Nationalities

4. The population of Cambodia is made up of:

- Khmers (90 per cent);
- Muslim Khmers (approximately 200,000);
- Ethnic minorities consisting of 16 groups speaking different languages and living on the high plateaux in the north-eastern part of the country (75,000);
- Persons of foreign origin (Chinese, 2 per cent; Vietnamese, 5 per cent).

5. Each nationality speaks its own language and retains its own practices and customs. However, Khmer is the official language.

Age of the population

6. According to the figures of the above-mentioned survey, 43.7 per cent of the population are under 15 years of age (boys, 46.6 per cent; girls, 41.1 per cent), while 4.1 per cent are over 65 (men, 3.6 per cent; women, 4.5 per cent). Life expectancy is less than 50 years.

Infant mortality

7. In 1993, the infant mortality rate stood at 117 per 1,000, and at 183 per 1,000 for the under-five age group. Maternal mortality was estimated at 9 per 1,000. In 31 per cent of infant mortality cases, the cause was premature birth, with birth complications accounting for 28 per cent. The main causes of death in the two-to-four year-old age bracket were respiratory infections (20 per cent), malaria (13 per cent) and diarrhoea (16 per cent).

Religions

8. Buddhism is the State religion, practised by 97.5 per cent of Cambodian citizens. Other religions are also practised, the most widespread being Islam and Catholicism.

Education

9. Children between 6 and 16 years of age receive a minimum of 9 years' compulsory primary schooling. The majority of children proceed to secondary schooling, which is not compulsory and which lasts another four years. Primary and secondary schooling are free. In higher education, poor students receive State grants. Currently, 34.7 per cent of adults are illiterate.

II. ECONOMY

10. In 1994, total domestic production was estimated to be worth 6,048 billion riels (US$ 2,340 million) at market prices. Measured at constant 1989 prices, production increased by 5 per cent in 1994, of which 45 per cent was credited to agriculture, 20 per cent to industry and 35 per cent to the service sector. Agriculture, principally rice production, is a major component of the national economy. Exports include rubber, timber and fisheries products.

11. In 1993, gross per capita national product was estimated at US$ 180, and the rate of inflation came to 31 per cent. Unemployment in 1993-1994 stood at 2.5 per cent.

III. GENERAL POLITICAL STRUCTURE

Historical background

12. Cambodia met with disaster due to protracted war lasting over two decades, marked principally by the genocide committed by the Khmers Rouges.

13. As a result of the Paris Agreement of 23 October 1991 between the four Cambodian parties, the Supreme National Council was set up with the task of achieving national reunification and reconciliation. The United Nations Transitional Authority in Cambodia (UNTAC) was charged with monitoring compliance with the Agreement and organizing elections in 1993.

14. Following the elections, a constituent assembly was convened to draw up the final draft of the Constitution, after which the Government took office headed by the two prime ministers.

Political regime

15. Cambodia has adopted a multiparty system of liberal democracy. The country's official name is the Kingdom of Cambodia. It is an independent, peaceful, neutral and non-aligned State.

16. From the beginning, the practice of democracy in Cambodia has run into numerous difficulties. However, the Royal Government has done all in its power gradually to achieve genuine democracy by strengthening the legal system, enhancing observance of the rule of law and guaranteeing respect for individual rights.

Government structure

17. The State is run by three clearly separate powers.

18. With regard to the executive, the King reigns but does not exercise power. The Prime Minister heads the Government, which is composed of Deputy Prime Ministers, ministers of State, ministers and secretaries of State. During the first legislative term, the Government was headed by two Prime Ministers.

19. Legislative power is vested in the National Assembly, which is composed of 120 members elected for terms of five years. Since the 1993 elections, four political parties have held seats in the National Assembly: FUNCINPEC (National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia) won 58 seats, the Cambodian People's Party 51 seats, the Buddhist Liberal Democratic Party 10 seats and MOLINAKA (National Liberation Movement of Cambodia) 1 seat.

20. Under article 109 of the Cambodian Constitution, a single type of court deals with all actions, including administrative cases.

21. Since 1993, there have been two levels of jurisdiction. The courts of first instance, established in all provinces and municipalities, hand down first and exceptionally final judgements. The Court of Appeal rules on appeals lodged against first judgements by courts of first instance. The Supreme Court rules on points of law for first appeals and on points of fact and law for second appeals. The military court hands down judgements on cases, subject to appeal.

22. Article 117 of the Constitution provides for the establishment of a Constitutional Council responsible for verifying the constitutionality of laws and the legality of legislative elections. The Council is not yet in place because the Supreme Council of Justice, which is responsible for appointing three of its members, is not yet functioning.

23. On 22 December 1994, the National Assembly passed a law on the organization and functioning of the Supreme Council of Justice, which had been submitted to it by the Royal Government on 21 November 1993. The Supreme Council, over which the King presides, is composed of seven judges and the Minister of Justice or his representative. The Council guarantees the independence of the judiciary and decides on the appointment and transfer of judges.

24. At the present time, there are 139 judges appointed by the Head of State sitting in the 21 courts of first instance, the Court of Appeal and the Supreme Court. The 42 new, recently recruited judges are undergoing a course of practical training after completing a course of theory.

25. The structure of the Ministry of Justice has been reorganized and a general inspectorate of judicial affairs has been established with the task of monitoring the administrative service of judges. In addition, with a view to ensuring the efficient administration of the judiciary, the Ministry has reformed the working methods, and a training section has been created within the personnel and training department. The annual assembly of judges was held in 1994 to assess the activities of the courts. This reform enables the Ministry of Justice to ensure the proper conduct of judges' activities in judicial and administrative matters.

Administrative organization

26. In Cambodia today there are 19 provinces and 3 municipalities headed by governors, divided into 170 districts and administrative divisions. The latter are subdivided into 1,545 communes and neighbourhoods.

27. Cambodia signed the Convention on the Rights of the Child on 22 September 1992. It is also bound by the following Conventions:

- Convention on the Prevention and Punishment of the Crime of Genocide (19 August 1950);
- International Convention on the Elimination of All Forms of Racial Discrimination (4 November 1983);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (22 September 1992);
- Convention on the Elimination of All Forms of Discrimination against Women (22 September 1992);
- Convention relating to the Status of Refugees (22 September 1992);
- Protocol relating to the Status of Refugees (22 September 1992);
- International Covenant on Civil and Political Rights (26 May 1992);
- International Covenant on Economic, Social and Cultural Rights (26 May 1992);
- International Convention on the Suppression and Punishment of the Crime of Apartheid;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

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MARSHALL ISLANDS

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I. LAND AND PEOPLE

1. Geography. The Marshall Islands lies between 4 degrees and 15 degrees north latitude and between 160 degrees and 173 degrees east longitude, 2,270 miles south-west of Hawaii and 1,500 miles east of Guam. The nation comprises 29 coral atolls and five reef islands scattered over 750,000 square miles of the central Pacific Ocean. Twenty of the atolls and four of the single islands are inhabited. These islands and atolls are arrayed in two parallel chains, the *Ratak* (sunrise) chain to the east and the *Ralik* (sunset) chain to the west. The total land area of the nation is only 70.05 square miles.

2. Each atoll consists of a ring of islets encircling a deep-water lagoon. The islets are interconnected and surrounded by a coral reef. None of these low-lying land areas has an elevation greater than 10 feet above sea level. The mean height of the land is about 7 feet above sea level.

3. Climate. The islands have a hot and humid climate. The average annual temperature is 81 degrees Fahrenheit with little seasonal variation. Trade winds from the north-east cool the high temperatures from December through March. The average annual rainfall varies from 70 inches in the north of the nation to 170 inches in the south. The wettest months of the year are October and November, and the months from December to April are generally drier.

4. The Republic is not considered to be in the typhoon belt. Nevertheless, because the island groups are true atolls with low-lying reefs and land masses, they are easily flooded during storms and tidal surges. In 1958, a typhoon destroyed buildings and structures in the old capital at Jabwor on Jaluit Atoll. More recently, in 1979, a series of tidal surges struck the most heavily populated areas of Majuro Atoll over a two-week period, destroying hundreds of homes and causing several million dollars in damage.

5. People. The people of the Marshall Islands are Micronesians - descendants of seafarers from south-east Asia who migrated to the islands 2,000 to 3,000 years ago. Since the first settlers arrived, the Marshall Islands has remained a highly homogeneous society. The 1988 census showed that 96.9 per cent of the total population of 56,219 is indigenous Marshallese. The remaining 3.1 per cent of the population is largely composed of persons from other Micronesian jurisdictions, the United States, the Philippines, and other Pacific island countries.

6. Language. The Marshallese language is the principal language of the nation. Two distinct dialects of the language are spoken in the eastern and western chains of islands; the two dialects are mutually comprehensible. The 1988 census documented a literacy rate of 90.7 per cent in the Marshallese language. English is taught as a second language in schools throughout the nation. Both Marshallese and English are used in official communications and in commerce, while English is used to a lesser extent on the outer islands.

7. Social structure and land tenure. Traditionally, Marshallese live in extended matrilineal family groups of three or more generations. In 1988, the average household size was 8.8 people. Each person also belongs to his or her

mother's *bwij*, or lineage, and has the right to use lineage land and other property. These lineage groups own most of the land in the Marshall Islands, which can only be owned by citizens.

8. Marshallese society is also divided into two hereditary classes: the *iroij*, the nobility, and the *dri jerbal*, the workers who are the *kajur*, or strength of the *iroij*. Both classes have clan rights to live and work on land. While the workers are expected to respect the nobles and pay them tribute from the fruits of their labour, the nobles are expected to assist their people in times of need and to resolve disputes.

9. The senior member of a royal clan is called an *iroijlaplap* or simply an *iroij*. The senior member of a worker's lineage is called an *alap* and is the spokesperson for his clan with the *iroij*. If the *alap* or the *iroij* is a woman, she may elect to have a younger brother or a son speak for her, but she can exercise her rights directly if she so chooses.

10. As the Marshall Islands has moved from a subsistence economy to a mixed cash/subsistence economy, the observance of the traditional social structure has diminished. Rather than living and working on the wife's land with her extended family, nuclear families migrate to Majuro and Ebeye (the urban centres) for cash jobs. Also, a new elite has emerged. Some untitled business people have more wealth and influence than some traditional chiefs, as do certain political leaders with control over government funds. However, the wealthy *iroijes* still command the greatest respect, and some are elected leaders.

11. Religion. Most Marshallese, approximately 80 per cent of the population, are Christians. The principal Protestant denomination, the United Church of Christ, includes 60 per cent of the population. This Church is the successor to the Congregationalists from New England and Hawaii who converted the islanders in the latter half of the nineteenth century. The Catholic Church is the next largest church with 20 per cent of the population. Other religious faiths present in the Marshall Islands include the Assembly of God, Seventh Day Adventists, Baptists, Baha'is, Mormons and Jehovah's Witnesses.

12. Urbanization. In the 50 years since the end of the Second World War, the Marshall Islands has experienced both rapid urbanization and population growth. While somewhat more than 30 per cent of the population (16,900) lives in a semi-subsistence mode in the rural atolls and islands, almost 70 per cent of the population (39,400) resides in the two population centres of Majuro and Ebeye.

13. Majuro Atoll is the most highly developed area in the nation and has several high schools, a community college, an 80-bed hospital and infrastructure that includes electricity, telecommunications, drinking water and sewage disposal. The atoll is 22 miles long. The widest islet measures about half a mile from ocean to lagoon.

14. As the national capital, Majuro is home to an expanding population, estimated to be 26,603 at mid-year 1995. Majuro also is the site of most public, commercial and industrial development. With a land area

of 3.75 square miles, Majuro Atoll has a population density of 5,244 people per square mile. Over half of Majuro's residents, 14,649, are crowded into a "downtown" administrative and commercial centre of 0.51 square miles. The population density in this "downtown" area is 28,724 people per square mile. As most housing is single storey, these figures represent a high ratio of people to floor space.

15. Ebeye, a small island within Kwajalein Atoll, is the only other urban centre in the Marshall Islands. Ebeye has a population of more than 12,800 on 0.14 square miles of land - a population density of over 90,000 people per square mile. The urbanization of Ebeye commenced in the late 1940s with the development of Kwajalein Atoll as a logistical support centre for the United States Department of Defense. The population of Ebeye has continued to grow over the years as people from throughout the Marshall Islands (and elsewhere in Micronesia) are attracted to job opportunities at the nearby military base.

16. Conditions on Ebeye are poor. Housing is substandard and extremely crowded. While a new 38-bed hospital will soon replace an old dilapidated facility, health problems are numerous and may be attributed, in part, to overcrowding and an inadequate water supply.

17. The rural outer islands comprise the remainder of the Marshall Islands. Scattered over great expanses of the Pacific Ocean, the people live in separate communities ranging from 50 to 800 persons. The outer islands constitute a diminishing proportion of the population of the nation. With few exceptions, residents of the outer islands do not have electricity or running water. Travel between non-contiguous islets of an atoll can only be made by canoe or motorboat. Meals are cooked on open fires, on single-burner kerosene stoves, or in traditional earth-ovens. The Government's field trip ships travel to each outer island every two or three months bringing passengers, medical and education supplies, and trade goods. Income for residents of the outer atolls is generated primarily from the sale of copra (dried coconut).

18. In the outer islands, medical care is available at dispensaries staffed by health assistants who maintain radio contact with the Majuro or Ebeye hospitals for instruction and guidance. Only two outer island atolls have high schools: a public high school on Jaluit Atoll and a private, Church-affiliated high school on the atoll of Ailinglaplap. A second public high school is under construction on Wotje Atoll.

19. Each of the 24 inhabited outer islands has an airstrip. Several of the larger atolls have more than one airstrip. Emergency medical evacuations are performed by small aircraft or, at islands where the airstrips have been closed for repair, by field trip ship. Medical evacuation by air can only take place by daylight since the outer island airstrips do not have landing lights. Medical evacuation by ship to Majuro or Ebeye can take as long as two days.

20. Population growth. In recent years, the Marshall Islands has had a very high growth rate. The first census, taken in 1920 under the Japanese administration, counted 9,800 people. At the next census, taken in 1935, the population numbered 10,446 individuals, indicating a very modest 6.6 per cent

population increase over a period of 15 years. Since the late 1950s, however, the rate of population growth has increased rapidly. The most recent national census, in November 1988, showed a population of 43,380, reflecting a 41 per cent increase since the 1980 census. The current population of the nation is estimated to have grown to 56,219 individuals.

21. The 1988 census also established certain other key indices of the health of the Marshallese people: the crude birth rate was 49.2 per 1,000; the crude death rate was 8.90 per 1,000; the infant mortality rate was 63 per 1,000; the total fertility rate was 7.23; the life expectancy at birth for men was 59.61 years and for women was 62.57 years; and the population growth rate was 4.17 per cent. There were, and are, no figures for maternal mortality or percentage of households headed by women.

22. The table below, derived from the November 1988 national census, quantifies the population cohorts by sex and age. The table shows that the population is very young. Fifty-one per cent of the population is under the age of 15 years, and only 3 per cent is 65 years of age or older.

Table 1. Marshall Islands population by sex and age (1988)

Age	Total	Percentage	Female	Male
0 - 4	8 651	19.9	4 228	4 423
5 - 9	7 609	17.5	3 725	3 884
10 - 14	5 876	13.5	2 821	3 055
15 - 19	4 085	9.4	1 981	2 104
20 - 24	3 510	8.1	1 824	1 686
25 - 29	3 027	7.0	1 507	1 520
30 - 34	2 656	6.1	1 308	1 348
35 - 39	2 187	5.0	982	1 205
40 - 44	1 492	3.4	734	758
45 - 49	971	2.2	422	549
50 - 54	743	1.7	357	386
55 - 59	680	1.6	359	321
60 - 64	635	1.5	313	322
65 - 69	544	1.3	255	289
70 - 74	373	0.9	183	190
75 +	341	0.8	153	188

Source: Census of Population and Housing, 1988, Office of Planning and Statistics, Majuro, Marshall Islands.

23. Well into the next century, the present pattern of population distribution could have staggering implications for the health care and social programmes of the Marshall Islands. It is anticipated that the nation will experience a continuing increase in the number of mothers and children with special health needs.

24. In late 1994, the Office of Planning and Statistics conducted an intercensal multi-purpose household survey. The preliminary results of this survey indicate some improvement in the health status of the Marshall Islands since the 1988 census. The Office gives a comparison of the findings of the two databases in the table below. Most notably, the population less than 15 years of age has dropped from 51 per cent of the population to 47.7 per cent and the growth rate has dropped from 4.1 per cent per annum to 3.6 per cent. A comparison of the 1988 census figures and those obtained in 1994 is shown in the following table.

Table 2. Summary of demographic indicators for the Marshall Islands, 1988 and 1994

Demographic indicator	1988	1994
Population less than 15 years	51.0%	47.7%
Crude birth rate	49.2/1 000	43.1/1 000
Crude death rate	8.9/1 000	7.3/1 000
Natural increase	4.1%	3.6%
Mean age of marriage		
Male	23.7 years	24.3 years
Female	21.0 years	21.4 years
Life expectancy at birth		
Male	59.6 years	59.9 years
Female	62.6 years	63.6 years

Source: Census of Population and Housing, 1988, Office of Planning and Statistics, Majuro, Marshall Islands.

25. From the 1988 census it is possible to estimate the population growth during the next five years in each region of the Marshall Islands. The mid-year projections are listed in the table below. The projections were made using the geometric assumption, applying the historic growth rates for each region during the 15-year period 1973-1988. The growth rate for Majuro was 4.41 per cent. The growth rate for Kwajalein was 3.61 per cent. The growth rate for the outer islands was 2.97 per cent. The national rate of growth was 3.76 per cent.

Table 3. Projected population for Marshall Islands

Year	Majuro	Kwajalein	Outer Islands	Total
1988	19 664	9 311	14 405	43 380
1995	26 603	11 935	17 681	56 219
1996	27 776	12 366	18 206	58 349
1997	29 002	12 813	18 747	60 561
1998	30 281	13 276	19 304	62 861
1999	31 617	13 755	19 877	65 249
2000	33 012	14 252	20 467	67 731

Source: Census of Population and Housing, 1988, Office of Planning and Statistics, Majuro, Marshall Islands.

26. A November-December 1994 Fertility and Family Planning Survey conducted by the Ministry of Health and Environment found that 8.33 per cent of women of child-bearing age were pregnant at the time of the survey. Since 20.25 per cent of the population consists of women of child-bearing age (15 to 49), the minimum proportion of pregnant women in population at any period in time may be calculated as 8.33 per cent of 20.25 per cent of the total population (i.e. 1.69 per cent).

II. THE ECONOMY

27. The economy is a mixture of a large subsistence sector and a cash-based sector. A substantial proportion of the population depends on subsistence agriculture and fishing for their livelihood. About half the gainfully employed people are engaged in agriculture and fishing. Their main agricultural activities are cash-copra production and the subsistence cultivation of coconuts, breadfruit, banana, pumpkin, taro, and pandanus.

28. Some 22,000 acres of land, about 60 per cent of the total land area of the Republic, is under coconut plantations. Until 1989, coconut oil and copra comprised about 90 per cent of total exports of the country. Now fish is the largest export accounting for over 80 per cent of total exports. These exports, however, are not enough to create a viable base by which the Marshall Islands can sustain a comfortable standard of living. Moreover, the land area is too small to support heavy manufacturing.

29. The cash-based sector of the economy is largely service oriented and is located in the two urban centres of Majuro and Ebeye. These centres are sustained by grants and payments by the United States under the Compact of Free Association. In fiscal year 1995, the United States gave the Marshall Islands approximately $48.0 million, 57 per cent of the islands' revenues. Much of the remaining revenues were taxes paid with Compact funds that had reached workers and consumers. If the United States does not renew

the Compact in 2001, or if another source of revenue is not found, the Marshallese will experience a sharp fall in their standard of living.

30. With Compact funding, the gross domestic product (GDP) per capita is $1,400 to $1,600 per year. Without the Compact, the Office of Planning and Statistics expects that the GDP per capita would be $200 to $600 per year. Currently, there is a substantial difference between the urban and rural per capita GDP. The per capita income in the urban centres of Majuro and Ebeye is over $1,700 per year, whereas the per capita income in the outer islands is between $200 and $600 per year. The lower cash income in the outer islands is partly offset by subsistence production and remittances from the urban areas.

31. To date, inflation has not been a problem. From 1984 to 1994, inflation has averaged 3.5 to 4.0 per cent per year. In 1992, inflation reached 10.3 per cent - this may have been due to the 1991 Gulf war that drove up the world prices of oil. From 1993 to 1994, however, inflation fell to between 4.9 and 5.28 per cent.

32. Unemployment, unlike inflation, is a problem. According to the 1988 census, the unemployment rate for the country as a whole was 12.5 per cent. In the census, an unemployed person was defined as either one who was available for work and was actively seeking work or one who was available for work although not actively seeking during the week prior to the census.

33. According to the 1988 census, there was more unemployment in the urban areas than in rural areas. The unemployment rate for Majuro was 17.0 per cent with 13.7 per cent for Ebeye as compared with only 5.3 per cent in the outer atolls. The census also provided information on other aspects of unemployment including sex- and age-specific rates and rates by the level of education attained. Unemployment was highest among the 15 to 19 age group at 38.8 per cent. Thereafter, the rates declined with 17.4 per cent for the 25 to 29 group with only 2.2 per cent for the 45 to 49 group. In the age group 15 to 19, the unemployment rate was higher among females at 45.2 per cent as compared with 36.1 per cent among males. The census indicated that almost 80 per cent of the unemployed had completed at least grade 8. Nearly a third of the unemployed had completed grade 11, while about a fifth had received post-secondary education.

34. The 12.5 per cent rate for the country may underestimate unemployment as some subsistence workers would work cash jobs if the jobs were available. Also, the traditional system is breaking down and more people are relying on paid employment for their livelihood.

35. The above figures show that unemployment is highest among educated youths who are increasingly being exposed to the values of a cash-based economy and are reluctant to engage in subsistence activities or will not be happy with the welfare system of the traditional extended family. The fact that an estimated 500 educated youths are joining the labour force every year and cannot find jobs that meet their expectations is a serious problem in an economy where most paid employment is the direct or indirect result of foreign aid. This is of great concern to policy makers.

III. GENERAL POLITICAL STRUCTURE

36. Over the past century, the Marshall Islands has undergone successive foreign domination by Germany, Japan and the United States. These foreign Powers ruled the islands for such advantages as trade, religious propagation, exploitation of resources, strategic considerations and maintenance of sea routes.

37. In 1885, after a 25-year period of commercial contact with other nations through the copra trade, the Marshall Islands formally became a protectorate of the German empire. The Germans were followed by the Japanese, who seized the islands from Germany in 1914. The Japanese administered the islands under a League of Nations mandate from 1920 to 1935, and were expelled by American forces during the Second World War. Kwajalein and Enewetak in the Marshall Islands were major battlefields of the American island-hopping campaign. At the end of the war, the United States assumed responsibility for administering the Marshall Islands under a United Nations trusteeship agreement. In the years following the war, the Marshalls developed towards a position of self-government.

38. Following the Second World War, the northern Marshall Islands became a testing ground for atomic and nuclear weapons. Between 1946 and 1958, the United States exploded 66 atomic and nuclear devices at Bikini and Enewetak Atolls. Kwajalein Atoll was and continues to be used by the United States for testing the weaponry of the Space Age. Where in earlier decades Kwajalein had served as a testing range for ballistic and anti-ballistic missiles, it is now a test site for the United States Space and Strategic Defense Command.

39. On 1 May 1979, the nation became internally self-governing after the electorate adopted a constitution drafted by elected representatives. The Constitution of the Marshall Islands incorporates a blend of the British and American constitutional concepts and consists of legislative, executive, and judicial branches. The legislature is a bicameral institution consisting of the Council of *Iroij* and the *Nitijela*. The main function of the Council of *Iroij*, which has a membership of 12, is to request consideration by the *Nitijela* of bills affecting customary law, land tenure, or any traditional practice. The *Nitijela* is the law-making chamber and consists of 33 members who stand for election every four years. The *Nitijela* also elects from its ranks a president and, on nomination by the President, other members of the *Nitijela* to serve with the President as the Cabinet. The Cabinet is the executive branch of the Government and directs the actions of the Public Service. The Cabinet is answerable to the *Nitijela* for its actions. The judicial branch consists of a supreme court, a high court, a traditional rights court and community courts.

40. There are 24 local governments that govern the affairs of the atolls and islands. Each local government consists of an elected council (except Ebon Atoll which has an hereditary council), an elected mayor, appointed or elected local officials, and a local police force.

41. United States Trusteeship administration of the Marshall Islands came to an end on 21 October 1986, when the Compact of Free Association between the Government of the United States and the Government of the Marshall Islands

came into effect. Under free association, the Marshall Islands is self-governing under its own Constitution and conducts its own domestic and foreign affairs, while the United States Government has authority and responsibility for defence and security matters. The Compact will remain in effect for an initial period of 15 years, providing the Marshall Islands with various economic, technical, trade and other benefits.

IV. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

42. In the Marshall Islands, human rights are enumerated and guaranteed under article II of the Constitution, the Bill of Rights. These rights include the following: (a) freedom of thought, speech, press, religion, assembly, association and petition; (b) freedom from slavery and involuntary servitude; (c) freedom from unreasonable search and seizure; (d) due process and fair trial; (e) just compensation for the taking of private property by the Government; (f) freedom from cruel and unusual punishment; (g) the right to a writ of habeas corpus; (h) freedom from *ex post facto* laws and bills of attainder; (i) limitations on the quartering of soldiers; (j) freedom from imprisonment for debt; (k) limitation on conscription and the right of conscientious objection; (l) equal protection and freedom from discrimination; (m) personal autonomy and privacy; (n) access to judicial and electoral processes; (o) access to health, education and legal services; (p) ethical government; and (q) any other rights retained by the people.

43. Competent authorities having jurisdiction affecting human rights. The Republic's High Court and the Supreme Court have jurisdiction to hear cases involving human rights. Normally, the High Court exercises original jurisdiction and the Supreme Court appellate jurisdiction. However, the High Court may, if it so chooses, remove cases to the Supreme Court that raise questions as to the interpretation or effect of the Constitution. In such removed cases, the Supreme Court exercises original jurisdiction.

44. Remedies and compensation for violations. The guarantees of the Bill of Rights may be invoked either as a defence in a civil or criminal proceeding or as a basis for legal or equitable relief against any actual or threatened violation.

45. Constitutional protections and derogations therefrom. The constitutional protections of the Bill of Rights are as set forth above. The Constitution is the supreme law of the land and is not subject to derogation.

46. How human rights instruments are made part of the legal system. For human rights instruments, or any other treaties, to be made part of the legal system, they must be expressly enacted into law. It is not enough that the instrument or treaty be accepted by the Cabinet and ratified by the *Nitijela*.

47. Enforcement of human rights instruments as law. Human rights that are guaranteed under the Constitution may be invoked in the courts as noted above. However, provisions of human rights instruments that are not contained in the Constitution must be enacted into law before they can be invoked.

48. Institutions to oversee implementation of human rights. Under the Constitution, it is the responsibility of the Cabinet, as the executive authority, to make such provision as may be reasonable and necessary for the people to enjoy their legal rights. Moreover, it is the responsibility of the Attorney-General to see that the laws are faithfully executed. There does not, however, exist an institution that is specifically charged with overseeing the implementation of human rights.

V. INFORMATION AND PUBLICITY

49. The contents and significance of the Bill of Rights are taught in the schools and were discussed and debated extensively prior to their adoption in 1979. However, human rights instruments, other than the Bill of Rights, have not been publicized and are not readily available.

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HONDURAS

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I. LAND AND PEOPLE

A. Country profile

1. Honduras has a total area of 112,492 sq. km. and is located in the centre of the Central American isthmus; it is bounded by the Republic of Guatemala, El Salvador and Nicaragua, to the north by the Atlantic Ocean and the Caribbean Sea and to the south by the Pacific Ocean.

2. It is the second largest country in Central America; 63 per cent of its area is mountainous and 37 per cent consists of relatively open valleys and lowlands. The climate is hot and humid, especially along the coastlines, where the average temperature is 31 °C, and where, at an altitude of 300 and 600 metres, the climate is temperate and temperatures average 29.5 °C.

3. Honduras is in an exceptionally good geographical location, with coasts on the Atlantic and Pacific Oceans thereby providing it with excellent communications with the rest of the world. Its sea ports are Puerto Cortés, Tela, La Ceiba, Trujillo and Castilla in the northern part of the country and San Lorenzo, Amapala and Henecán in the south. Air transport facilities consist of Toncontín airport in Tegucigalpa, Ramón Villeda Morales Airport in San Pedro Sula, Golosón Airport in La Ceiba, Roatán Airport in Islas de la Bahía and Palmerola Airport in Comayagua. Other, smaller airports are available for internal or local flights. With regard to land transport, the country has a first-class road network, consisting of the northern highway, Atlantic coast highway, western highway, north-eastern highway, eastern highway and the southern "Panamericana" highway, which connects Honduras with El Salvador and Nicaragua.

Soil and climate

4. Sixty-six per cent of its territory is afforested, 25 per cent is suitable for agricultural and stock-raising activities and 9 per cent consists of marshes and mangrove swamps. Honduras' subtropical climate, which varies between humid and dry, explains its wide variety of land and water flora and fauna, which have aroused the interest of researchers and scientists working on the production of medicines, new foodstuffs and energy and industrial raw materials.

Principal ecosystems

5. Maritime influences and its rugged topography and variable soil types have given rise to a wide range of ecosystems. Owing to the heavy rainfall from the direction of the Caribbean experienced by the north-eastern region, the hot and humid Atlantic basin receives 1,750 to 2,000 mm of precipitation per year, producing humid and very humid conditions along the slopes bordering the Atlantic, which account for more than 75 per cent of the land area. The dominant vegetation in the Atlantic area consists of broad-leaved trees, except in areas where fires, soil conditions or man-made changes are more conducive to pine forests. The protected coastal lagoons and bays are lined with mangrove swamps, which are influenced by the tide inland from the main

rivers flowing into the sea. The coral barrier reefs surrounding the Islas de la Bahía and other remote Caribbean islets are some of the best in this hemisphere.

6. The following distinct communities can be identified and described by applying the 1968 Monroe classification to the natural habitats present in Honduras:

Tropical rain forest or lowlands;

Dry or deciduous tropical forest (monsoon forest);

Cloud forest (rain or mountain);

Combinations of ocote pine and oak pine;

Lowland pine savannahs;

Coastal and coral reef ecosystems.

Fauna and flora

7. Honduras has a national system of protected areas which now comprise approximately 50 national parks, biosphere reserves and other categories of reserves and sanctuaries, all of which have been established by law. They contain various species of wildlife (birds, reptiles and amphibians and mammals).

B. Population

1. Demographic features

8. It is estimated that Honduras will have a population of 5.6 million in 1996, which represents an annual growth rate of 2.8 per cent. It is expected to reach 6 million by the year 2000, when population density will be 50.2 persons per sq. km.

9. The population structure disaggregated by sex, is about evenly divided between men and women, who account for 50.4 per cent and 49.6 per cent of the total respectively. The greater proportion of men in rural areas (51 per cent) and of women in urban areas (52 per cent), reveals a greater tendency on the rest of women to leave rural areas for the country's urban centres. Women account for 25 per cent of the total urban population in the 25-44 age group, as against only 17 per cent for men. In rural areas men in the 15-44 age group account for 19 per cent of the population and women for 18 per cent. Women living in rural areas are beginning to migrate from the age of 15, presumably in search of jobs.

10. The main feature of the Honduran population is its youth, young persons under 15 years of age accounting for 46.8 per cent of the total. According to the 1988 population census, 49 per cent of persons 10 years and older

consider themselves to be economically active. Women have been joining the labour force in significant numbers, the proportion rising from 13 to 21 per cent, as a result of increased awareness of the importance of women's role in society. However, this is also due to the deterioration in the country's economic situation, which has caused a significant drop in the real wages of heads of household.

11. Forty-six per cent of the population live in urban areas, 20.4 per cent of this group being concentrated in Tegucigalpa and San Pedro Sula; Tegucigalpa is the capital and San Pedro Sula the country's main industrial centre.

2. Political and administrative divisions

12. For political and administrative purposes the country is divided into 18 departments, which are subdivided into 296 municipalities and 3,735 1/ villages which are themselves divided into 27,502 hamlets - the smallest territorial divisions. The following table shows population distribution by department for 1996 and 2000.

Honduras: Population by department, 1996 and 2000

	1996	2000
1. Atlántida	304 910	338 072
2. Choluteca	368 409	403 791
3. Colon	196 025	221 808
4. Comayagua	315 676	356 488
5. Copán	276 575	304 570
6. Cortés	825 853	905 705
7. El Paraíso	321 610	354 789
8. Francisco Morazán	1 018 178	1 109 160
9. Gracias a Dios	46 963	52 897
10. Intibucá	158 288	175 316
11. Islas de la Bahía	28 448	31 311
12. La Paz	136 750	152 020
13. Lempira	223 532	246 893
14. Ocotepeque	93 849	103 836
15. Olancho	372 611	421 341
16. Santa Bárbara	347 093	381 808
17. Valle	150 107	163 783
18. Yoro	423 398	471 338
Total	5 608 275	6 195 926

Source: Population, Gender and Employment Unit, SECPLAN.

1/ In June 1996.

2. Ethnic characteristics

13. One segment of the population to which special attention is given consists of the ethnic groups, which comprise eight cultural groups (garífuna, tolupán or xicaque, misquitos, lencas, chortis, tawahkas, pech and Island Negroes), numbering 463,700 persons, i.e., approximately 8 to 10 per cent of the total population. The garífunas, who live along the country's northern coast, account for over half of this number. The Misquitos, who live in the north-eastern area, specifically the department of Gracias a Dios, number approximately 35,000. The lencas, approximately 80,000 strong, live in the departments of Lempira, Intibucá, La Paz, Comayagua, and part of Cortés, Valle and Francisco Morazán. The 4,000 pech inhabit the department of Olancho and approximately 2,000 tawahkas and chortís live in Gracias a Dios and in Copán and Ocotepeque, respectively.

14. These population groups are generally found in severely disadvantaged areas, which are characterized by limited access to social services, a shortage of road networks and a subsistence economy. For this reason it is Government policy to give priority to such groups in the context of community-oriented initiatives. It should be noted that these population groups retain their languages, and that the promotion of bilingual education is part of Government policy.

Religious and linguistic characteristics

15. Although Honduras is a predominantly Catholic country, it enjoys freedom of religion and a wide variety of religions.

16. Various languages are spoken in the country, such as English in the Islas de la Bahía and garífuna and misquito in some areas on the northern coast. The official language is Spanish.

C. Economic, social and cultural characteristics

17. The Honduran economy is continuing to experience serious structural problems associated with savings and production, which are of decisive importance in efforts to achieve sustainable economic growth.

18. The introduction of structural adjustment measures made it possible to reduce the budget deficit to 5.7 per cent of GDP in 1994, and at the end of 1995 economic activity had expanded by 3 per cent in real terms, thereby largely overcoming the main difficulties affecting the economy during 1994. This recovery took place in most production sectors as a result of the implementation of a set of measures introduced late in 1994 and early in 1995; they included tax reforms, export promotion measures, a moderate monetary and credit policy and minor reductions in the reserve ratio; nevertheless, the value of the lempira declined by 10 per cent against the dollar.

19. Inflationary pressures were strong in 1995 reflecting speculation and an increase in the cost of imported inputs and consumer end products owing to fluctuations in the lempira /dollar exchange rate. Specifically, inflation, measured in terms of the Consumer Price Index (CPI), increased by 29.5 per cent in 1995, or by 7.8 per cent more than in 1994.

20. The external debt rose from US$ 3.700 million in 1994 to US$ 3.900 million in 1995, and interest amounted to US$ 209.9 million, a figure similar to that for 1994, namely, US$ 200.1 million, which represented 68 per cent of the current accounts deficit of the balance of payments and 14.9 per cent of exports of goods and services. These figures reveal the extent to which interest payments on the external debt are inhibiting the country's economic growth.

21. With regard to production, the agriculture and stock-raising sector accounts for 27 per cent of the country's total output of goods and services, coffee and bananas being the main source of foreign currency, although significant increases have been achieved in recent years in exports of canteloupe melon, watermelon, African palm and sugar, and in the fish and shrimp sectors are showing signs of greater activity. Increases in the industrial sector have been recorded by manufactured goods, such as wood-based products and textiles.

22. It should be noted that, during the period 1990-1993, the Government, with the active participation of the private sector, began a broad-based economic adjustment programme, designed to restore the balance of payments, curb inflation, achieve credibility for financial institutions and create a sound production base to foster sustainable growth. For 1994-1995, the emphasis in economic policy remained the same with regard to correcting macroeconomic imbalances, which in 1994 was reflected in the fact that the deficit amounted to 5.7 per cent of GDP. In 1995, however, it declined by 1.7 per cent. The annual average inflation rate for 1994, 21.7 per cent, rose to 29.5 per cent in 1995.

23. Against this background, social problems such as high levels of unemployment and underemployment, an acute shortage of social services and unequal distribution of income continue to discourage the majority of the Honduran population.

24. The incidence of poverty is explained by low per capita incomes as well as their extremely inequitable distribution. Honduras is the third poorest country in Latin America.

25. Generally speaking, significant but as yet inadequate progress has been made in reducing illiteracy, which declined from 42 per cent to 32 per cent between 1974 and 1988, the estimated figure for 1993 being 29.4 per cent. The average duration of schooling for the population as a whole in 1994 was 4.2 years, and it is considered that approximately 60 per cent of the economically active population have had less than three years of instruction. Efforts made to increase educational coverage and quality, however, have been offset by high drop-out, repeat and absentee rates at all levels. Another problem is the unfair distribution of Government expenditure in the education sector, since it is concentrated on higher education.

26. The people's health level has improved steadily in the last four years. However, problems of access, coverage and quality persist, and there is a high prevalence of diarrhoeic diseases and respiratory infections.

27. The maternal mortality rate is 221 per 100,000 live births. The infant mortality rate is one of the highest in Latin America (42 per 1,000 live births), the principal causes being acute respiratory infections and diarrhoea (70 per cent). The rate of foetal mortality associated with maternal mortality is 33 per cent; every four hours a child under one year dies and over half of these deaths (neonatal and post-natal) are caused by communicable diseases, malnutrition, and avoidable environmentally-related conditions (water- and vector-borne diseases).

28. Nutritional deficiencies have a high long-term socio-economic cost for the country, primarily because of the damage they cause to the health, physical growth, mental development and learning capacity of young children. The number of low birth weight babies born in the health establishments of the Ministry of Public Health and the Institute for Social Security fluctuated between 7 and 8 per cent in the 1980s and rose to 11 per cent in 1993. The under-five malnutrition rate rose from 48.6 per cent in 1987 to 52.5 per cent in 1991. According to Ministry of Health statistics, 2.1 per cent of infant mortality cases in 1990 were due to causes associated with malnutrition, as compared with 0.9 per cent in 1980. This was largely due to the conditions of poverty afflicting a large percentage of the Honduran population.

29. The access of households to food and other consumer goods and services depends largely on prices and income levels. The Consumer Price Index (CPI) has increased by 96.6 per cent in the past five years, the greatest increase being in the food category. This has affected the cost of the basic food basket, which rose from 16.43 lempiras in 1990 to 42.95 in 1995.

30. The country is experiencing a housing deficit of some 700,000 dwelling units for 1995. Of a total of 1.1 million dwelling units, 58 per cent are in rural areas and the remaining 42 per cent in urban areas. Only one third of them can be regarded as acceptable from the standpoint of habitability; 64 per cent are overcrowded, 33 per cent do not have clean drinking water and 41 per cent lack sanitation systems.

31. The economically active population in Honduras accounts for approximately 35 per cent of the total population. In 1994 the working population numbered approximately 1,775,000, 55 per cent of whom lived in rural areas. It may be noted that 38 per cent of the working population is active in the agricultural, forestry, hunting and fishery sectors and 18 per cent in industry (including mining); the remaining 44 per cent work in the services, trade, transport and construction sectors. An average of 70,000 people join the economically active cohort each year but employment opportunities are not increasing at the same rate.

32. According to the 1988 population census, 14.3 per cent of the population is between 15 and 19 years of age and 13.7 per cent between 20 and 24 years of age; the corresponding figures are higher in rural areas. The former group is the one with the largest number of unemployed, owing to the country's low economic growth rates, which limit job opportunities. Statistics for 1995 indicate that employment problems are experienced by 36 per cent of the economically active population in rural areas and 24 per cent in urban areas. Underemployment is 34 per cent in rural areas and 17 per cent in urban areas

and unemployment 2 per cent in rural areas and 7 per cent in urban areas. The high percentage of underemployed persons is reflected in the large number of workers employed in the urban and rural informal sectors.

33. Open unemployment in the country remained below 4.2 per cent in October 1995. The major employment problem continued to be invisible and visible underemployment, which means that a large percentage of the economically active population has an income that is far below the minimum wage and works long hours. The situation is even more disturbing in the rural areas.

34. Poverty levels are influenced by whether the head of household is an employee or self-employed. The probability of being poor is greater for those in the latter category, owing to the educational requirements a worker must meet in order to get a job, which confirms the relationship between education and poverty. According to the Housing Survey data on occupational category, 76 per cent of poor households are headed by people who are self-employed.

II. GENERAL POLITICAL STRUCTURE

A. Historical background

35. The Maya culture, one of the oldest on the Latin American continent, was concentrated in the western part of the country. It apparently reached its highest demographic, architectural and artistic climax under the direction and control of a single reigning dynasty. It would seem that the area under Mayan control fluctuated over the centuries, and at one point included the Mayan centre of Quiriguá in eastern Guatemala. In 400 and 500-900 B.C., a large number of regional centres sprang up in the Sula Valley, dividing the fertile plains into rival political units. These units maintained ties with the Mayas of Belize and the Mayan lowlands to the south.

36. At the beginning of the conquest, Naco was the largest regional political centre in the north-eastern part of the country and maintained trade relations with the highland areas of Guatemala and Mexico. Naco comprised approximately 2,000 dwellings.

37. In the early sixteenth century, there was no dominant group comparable to the quiche or catchiquele "kingdoms". Heterogeneity and the absence of a dominant group would suggest that there was frequent inter-tribal fighting and that the weakness of these tribes exposed them to raids from the outside (by Aztec tribes, for example). The area was the scene of fierce conflicts between them and the Spanish conquistadors, who challenged their dominance and wealth; the latter included Cristóbal de Olid, Gil González Dávila and Francisco Hernández Córdoba.

38. In the context of indigenous uprisings in reaction to the brutality of some of the leaders of the conquest, the colonists made and broke governors and imposed the old comunero spirit in the provinces of Honduras and Nicaragua, appointing authorities who pandered to their desires and interests. One of the instruments used as a communications device was the "town council".

39. In 1539 Pedro de Montejo (the person who introduced Honduras to wheat and grapes) concluded an agreement with Pedro de Alvarado, following a conflict arbitrated by Bishop Pedraza, and agreed to go to Chiapas, and leave the governorship of Honduras to Alvarado. Nearly three centuries later, José Gregorio Tinoco de Contreras, the last Spanish governor, attempted to organize the province militarily to defend it from attacks by privateers. When independence was proclaimed on 15 September 1821, Tinoco continued to govern but had to leave office when he failed in his attempt to take over the town of Tegucigalpa, which opted to join Guatemala rather than come directly under Mexican rule as he had wished. The rivalry between the towns of Comayagua, at the time capital of the province and headquarters for the main authorities, and Tegucigalpa, which was the largest municipal area and the most prosperous in terms of mining and trade, was to continue into the first few decades of the nineteenth century. In 1880 Tegucigalpa was declared the capital of Honduras.

B. Organization of the State

40. Following the period of annexation to Mexico, Honduras became one of the five States of the Central American Federation. Pursuant to the 1825 Constitution, the territory was divided into seven departments: one in the north (Yoro), one in the south (Cholutec), two in the centre of the country (Comayagua and Tegucigalpa), two in the west (Gracias and Santa Bárbara) and one in the east (Olancho). As indicated above, the country now comprises 18 departments and 296 municipalities.

41. Unlike Guatemala, El Salvador and Costa Rica, where a middle class emerged around coffee exports, Honduras's sole source of wealth throughout the nineteenth century, namely, stock-raising, was destroyed during the civil wars, leaving the country in a State of severe constitutional, institutional and governmental instability. In addition to the three Federal Constitutions (1824, 1898 and 1921), the country has had 12 other Constitutions, namely, those of 1825, 1839, 1848, 1865, 1873, 1880, 1894, 1906, 1936, 1957, 1965 and 1982. There have been over 130 changes of government between the first head of State, José Dionisio de Herrera, and the current President of the Republic, Mr. Carlos Roberto Reina Idiáquez.

42. From 1827 through the 1980s, approximately 400 military engagements took place in the national territory, some promoted or encouraged by neighbouring Governments or banana companies established in the country. In 1876, after a period characterized by anarchy or despotism, President Marco Aurelio Soto introduced a series of liberal reforms in order to further the institutional development process that Francisco Morazán (champion of Central American union) had tried to initiate in 1829.

43. The 1894 Constitution - the most liberal constitution in Central America at the time - was promulgated during Policarpo Bonilla's term of office. Mr. Juan Manuel Gálvez, President of the Republic from 1949-1954, embarked upon the modernization of the State for the good of society. The first Agrarian Reform Law, the Labour Code and the Social Security Act were adopted during the administration of Mr. José Ramón Villeda Morales and subsequently the military junta, headed by General Oswaldo López Arellano, enacted other provisions beneficial to workers and peasants.

44. Although article 5 of the Republic's current Constitution (1982) stipulates that the Government is one of "national integration", in actual fact Governments identify themselves according to the political party in power.

45. There is also clearly a need to reduce the number of deputies and amend the procedure followed in selecting judges in order to make it independent of political factors; this criterion should also be used in the organization of the National Electoral Tribunal.

1. Structure of State bodies

46. According to articles 1, 2, 3 and 4 of the Constitution, Honduras is a sovereign State under the rule of law, constituted by the will of the people, its main features being its republican, democratic, representative and centralized nature. The Government comprises three branches: legislative, executive and judicial, which are complementary, independent and equal in rank.

(a) The executive

47. The executive is headed by the President of the Republic. The 1957 Constitution abolished the office of vice-president, who has been replaced by three presidential alternates.

48. The executive was reorganized by Legislative Decree No. 218 in 1996 and began functioning in its new form on 1 January 1997 in the context of the institutional reforms that had been introduced. There are 14 ministerial departments at the central government level: Interior and Justice; Office of the President; Foreign Affairs; Industry, Trade and Tourism; Finance; National Defence; Labour and Social Security; Health; Education; Public Works; Transport and Housing; Culture, Arts and Sports; Agriculture and Stock-Raising and Natural Resources and Environment.

(b) The legislature

49. The National Congress consists of 128 deputies and an equal number of alternates. All of them, as well as the members of the municipal councils, are elected for a term of four years on the last Sunday in November of the last year of the Government's term of office, and the new Government takes office in January of the following year.

(c) The judiciary

50. Chapter XII of the Constitution of the Republic states:

> "Article 303. The power to dispense justice emanates from the people and is administered free of charge on behalf of the State by independent magistrates and judges. The Judicial Power consists of a Supreme Court of Justice, the Courts of Appeals, and the Courts established by the Law.

"The Supreme Court of Justice shall have its seat in the Capital of the Republic, shall be composed of nine principal magistrates and seven alternates, elected by the National Congress, and shall be divided into chambers [*salas*], in accordance with the provisions of the Internal Regulations of that Court.

"Article 304. The President of the Supreme Court of Justice shall be elected by the National Congress for a term of four years.

"Article 305. The term of Magistrates of the Supreme Court of Justice shall be four years and they may be re-elected.

"The vacancies shall be filled for the remainder of the term."

C. Political parties, electoral system and armed forces

51. The main organized political party is the Liberal Party. There is no relationship in Honduras between a person's economic situation and his vote, as the majority of landowners and peasants, businessmen and workers, the educated and the uneducated vote for the traditional Liberal and National Parties. A person's vote for this or that party reflects family tradition. In recent times, however, the electorate has become less set in its ways and at times leans towards the National Party and at others towards the Liberal Party. The people have also shown a striking lack of interest in exercising their right to vote, as reflected in the high level of non-participation.

52. The last elections this century will be held on Sunday, 30 November 1997. A home voting system has been introduced for these elections, as well as separate votes for the offices of President/Alternate. Deputy and Mayor; there will be a separate ballot paper for each of these three categories.

53. Feminist organizations and ethnic groups have been calling for greater participation in policy decisions and there have also been demands that the Electoral Law should be made less rigid. Hondurans who reside abroad and military personnel on active duty are still not entitled to vote.

54. The armed forces of Honduras constitute a permanent national institution, and are essentially professional, apolitical, obedient and well-disciplined. Their purpose is to defend the territorial integrity and sovereignty of the Republic, the Constitution, the principle of free suffrage and alternation in the exercise of the office of President of the Republic. The armed forces are divided into four branches: army, air force, navy and public security force. The latter, which had been acting as a military police force, will become a civilian police force on 21 October 1998.

55. The professionalization of the army began in the 1950s under the guidance of the United States. In 1956 the armed forces acquired a political role when the dictatorship of Julio Lozano Díaz was overthrown, and the 1957 Constitution accorded them a broad measure of autonomy.

56. Two alternating trends had previously been apparent: authoritarianism, encouraged by the then Generals Oswaldo López Arellano (1963, 1972) and Gustavo Alvarez Martínez (1982-1984), and discussions in the "Supreme Council of the Armed Forces" a collegiate body consisting of senior military staff and the commanders of the country's military units. The armed forces broke with the constitutional order in 1963 and 1972 when they declared themselves to be the institution responsible for the protection of society. During the present Government's term in office they lost control of some of the institutions they had been directing: the Honduras Telecommunications Company, Merchant Marine and Police.

57. Compulsory military service has been replaced by voluntary education-oriented service.

III. LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative and other authorities

58. The following government institutions have jurisdiction in human rights matters:

(a) The High Commissioner for Human Rights. The Attorney-General of the Republic is subordinate to the legislature, and to which the Special Prosecutor for Human Rights is answerable;

(b) At the judicial level, the Supreme Court of Justice and the National Public Defence Department;

(c) At the executive level, the Human Rights Department of the Ministry of Foreign Affairs.

B. Remedies and system of compensation

59. The constitutional guarantees in our legislation are set out explicitly in title IV, chapters I and II, which refer to the guarantees of habeas corpus or personal appearance, amparo (enforcement of constitutional rights), action for unconstitutionality and judicial review.

60. Chapter III, entitled "Treaties", of the Constitution, states that Honduras supports the principles and practices of international law, which promote the solidarity and self-determination of peoples, non-intervention and the strengthening of universal peace and democracy, and proclaims the validity and obligatory execution of arbitral and judicial awards of an international character (art. 15).

61. Once international treaties enter into force they become part of domestic law and their provisions may be invoked by natural or legal persons in any court or before any authority of the Republic; in cases of conflict between a treaty and domestic law, the treaty shall prevail, i.e. Honduras recognizes the supremacy of international over national law.

IV. INFORMATION AND PUBLICITY

62. The International Covenant on Economic, Social and Cultural Rights has been published in the Official Gazette (La Gaceta). Under Honduran legislation no one may claim ignorance of the law once a law has been published in the Gazette. An inter-agency commission was established to prepare Honduras's report to the Committee on Economic, Social and Cultural Rights, and duly embarked upon its work. Its findings were consolidated and submitted for discussion with other non-governmental agencies and organizations to provide the comments and suggestions which have been used in this report. The report is currently being publicized on a nationwide basis.